



**HAWAII STATE  
HOUSE OF REPRESENTATIVES**

**REGULAR SESSION OF 2009**

***ROUGH DRAFT  
JOURNAL***

**TWENTY-SIXTH DAY**

**MARCH 10, 2009**

**OFFICE OF THE CHIEF CLERK**



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## TWENTY-SIXTH DAY

Tuesday, March 10, 2009

The House of Representatives of the Twenty-Fifth Legislature of the State of Hawaii, Regular Session of 2009, convened at 9:03 o'clock a.m., with the Speaker presiding.

The invocation was delivered by Dr. Kalani Brady of the John A. Burns School of Medicine, after which the Roll was called showing all members present with the exception of Representative Takai, who was excused.

By unanimous consent, reading and approval of the Journal of the House of Representatives of the Twenty-Fifth Day was deferred.

## GOVERNOR'S MESSAGE

The following message from the Governor (Gov. Msg. Nos. 258) was received and announced by the Clerk and was placed on file:

Gov. Msg. No. 258, dated February 27, 2009, transmitting the 2nd Annual Report Summary of the Small Business Utilization Council, pursuant to Hawaii Administrative Rules, Chapter 3-124, Subchapter 9, "Small Business Preference Rule."

## SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 40 through 80) were received and announced by the Clerk:

Sen. Com. No. 40, transmitting S.C.R. No. 44, entitled: "SENATE CONCURRENT RESOLUTION EXPRESSING SUPPORT FOR THE UNITED STATES GEOLOGICAL SURVEY REPORT, 'THE CORAL REEF OF SOUTH MOLOKAI, HAWAII: PORTRAIT OF A SEDIMENT THREATENED FRINGING REEF', ENCOURAGING FEDERAL, STATE, AND COMMUNITY COOPERATION TO STEWARD THE SOUTH MOLOKAI REEF FISHERY," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 41, transmitting S.B. No. 53, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 42, transmitting S.B. No. 107, entitled: "A BILL FOR AN ACT RELATING TO ADMINISTRATIVE REVOCATION," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 43, transmitting S.B. No. 108, entitled: "A BILL FOR AN ACT RELATING TO FAMILY COURT," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 44, transmitting S.B. No. 112, entitled: "A BILL FOR AN ACT RELATING TO THE CHILDREN'S JUSTICE PROGRAM," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 45, transmitting S.B. No. 121, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS ACT," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 46, transmitting S.B. No. 162, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 47, transmitting S.B. No. 205, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO OWNER-BUILDERS," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 48, transmitting S.B. No. 208, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 49, transmitting S.B. No. 230, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE RIGHTS OF VICTIMS," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 50, transmitting S.B. No. 259, entitled: "A BILL FOR AN ACT RELATING TO JURY DUTY," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 51, transmitting S.B. No. 309, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 52, transmitting S.B. No. 438, entitled: "A BILL FOR AN ACT RELATING TO BOARD OF EDUCATION MEETINGS," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 53, transmitting S.B. No. 461, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 54, transmitting S.B. No. 477, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT RETENTION OF ATTORNEYS," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 55, transmitting S.B. No. 497, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TEACHER STANDARDS BOARD," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 56, transmitting S.B. No. 501, entitled: "A BILL FOR AN ACT RELATING TO THE TEACHER EDUCATION COORDINATING COMMITTEE," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 57, transmitting S.B. No. 535, entitled: "A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 58, transmitting S.B. No. 567, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 59, transmitting S.B. No. 614, entitled: "A BILL FOR AN ACT RELATING TO FAMILY LEAVE," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 60, transmitting S.B. No. 654, entitled: "A BILL FOR AN ACT RELATING TO VOTING," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 61, transmitting S.B. No. 688, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 62, transmitting S.B. No. 721, entitled: "A BILL FOR AN ACT RELATING TO DISTRICT-WIDE IMPROVEMENT PROGRAMS," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 63, transmitting S.B. No. 782, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 64, transmitting S.B. No. 786, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HISTORIC PLACES," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 65, transmitting S.B. No. 799, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE X, SECTION 2, OF THE HAWAII CONSTITUTION, TO CLARIFY THE

SELECTION OF THE STUDENT MEMBER OF THE BOARD OF EDUCATION," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 66, transmitting S.B. No. 843, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SENTENCING," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 67, transmitting S.B. No. 848, entitled: "A BILL FOR AN ACT RELATING TO METAL," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 68, transmitting S.B. No. 851, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD SUPPORT ENFORCEMENT," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 69, transmitting S.B. No. 856, entitled: "A BILL FOR AN ACT RELATING TO IDENTIFICATION," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 70, transmitting S.B. No. 880, entitled: "A BILL FOR AN ACT RELATING TO GAS PIPELINE SYSTEMS," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 71, transmitting S.B. No. 896, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL SERVICE LAW," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 72, transmitting S.B. No. 906, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC MEETINGS," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 73, transmitting S.B. No. 930, entitled: "A BILL FOR AN ACT RELATING TO VOLUNTEER MEDICAL ASSISTANCE SERVICES," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 74, transmitting S.B. No. 936, entitled: "A BILL FOR AN ACT RELATING TO DEPARTMENT OF HEALTH CERTIFICATES," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 75, transmitting S.B. No. 937, entitled: "A BILL FOR AN ACT RELATING TO MENTAL HEALTH," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 76, transmitting S.B. No. 1108, entitled: "A BILL FOR AN ACT RELATING TO NATIVE HAWAIIANS," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 77, transmitting S.B. No. 1120, entitled: "A BILL FOR AN ACT RELATING TO CHARTER SCHOOLS," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 78, transmitting S.B. No. 1142, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PHYSICIAN ASSISTANTS," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 79, transmitting S.B. No. 1215, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO THE HAWAII CONSTITUTION RELATED TO RESIDENCE REQUIREMENTS FOR MEMBERS OF THE LEGISLATURE," which passed Third Reading in the Senate on March 6, 2009.

Sen. Com. No. 80, transmitting S.B. No. 1622, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY," which passed Third Reading in the Senate on March 6, 2009.

On motion by Representative Evans seconded by Representative Pine and carried, the following Senate bills passed First Reading by title and further action was deferred: (Representative Takai was excused.)

S.B. No. 53	S.B. No. 688
S.B. No. 107	S.B. No. 721
S.B. No. 108	S.B. No. 782, SD 1
S.B. No. 112	S.B. No. 786, SD 1
S.B. No. 121, SD 1	S.B. No. 799
S.B. No. 162	S.B. No. 843, SD 1
S.B. No. 205, SD 1	S.B. No. 848
S.B. No. 208	S.B. No. 851, SD 1
S.B. No. 230, SD 1	S.B. No. 856
S.B. No. 259	S.B. No. 880
S.B. No. 309	S.B. No. 896, SD 1
S.B. No. 438	S.B. No. 906
S.B. No. 461, SD 1	S.B. No. 930
S.B. No. 477	S.B. No. 936
S.B. No. 497, SD 1	S.B. No. 937
S.B. No. 501	S.B. No. 1108
S.B. No. 535	S.B. No. 1120
S.B. No. 567	S.B. No. 1142, SD 1
S.B. No. 614	S.B. No. 1215
S.B. No. 654	S.B. No. 1622, SD 1

## INTRODUCTION

The following introduction was made to the members of the House:

Representative Har introduced 3rd, 4th and 5th grade students of the Ohana Council of Mauka Lani Elementary School. They were accompanied by counselors and advisors, Ms. Arisa Domingo, Ms. Tammy Sakato and Mr. Keahi Teson.

## 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>
81	Committee on Legislative Management, then to the Committee on Judiciary
82	Committee on Hawaiian Affairs, then to the Committee on Water, Land, & Ocean Resources
83	Committee on Water, Land, & Ocean Resources, then to the Committee on Finance
84	Committee on Water, Land, & Ocean Resources, then to the Committee on Finance
85	Committee on Education, then to the Committee on Finance
86	Committee on Education, then to the Committee on Finance
87	Committee on Water, Land, & Ocean Resources, then to the Committee on Transportation

<u>H.C.R.</u> <u>Nos.</u>	<u>Referred to:</u>
101	Committee on Legislative Management, then to the Committee on Judiciary
102	Committee on Hawaiian Affairs, then to the Committee on Water, Land, & Ocean Resources
103	Committee on Water, Land, & Ocean Resources, then to the Committee on Finance

104	Committee on Water, Land, & Ocean Resources, then to the Committee on Finance	477	Committee on Legislative Management, then to the Committee on Judiciary, then to the Committee on Finance
105	Committee on Education, then to the Committee on Finance	497, SD1	Jointly to the Committee on Education and the Committee on Labor & Public Employment, then to the Committee on Finance
106	Committee on Education, then to the Committee on Finance		
107	Committee on Health, then to the Committee on Consumer Protection & Commerce, then to the Committee on Legislative Management	501	Jointly to the Committee on Education and the Committee on Labor & Public Employment, then to the Committee on Finance
108	Committee on Water, Land, & Ocean Resources, then to the Committee on Finance	535	Committee on Human Services, then to the Committee on Judiciary
		567	Committee on Health, then to the Committee on Judiciary
		614	Committee on Economic Revitalization, Business, & Military Affairs, then to the Committee on Labor & Public Employment, then to the Committee on Finance
		654	Committee on Judiciary, then to the Committee on Finance
		688	Committee on Labor & Public Employment, then to the Committee on Economic Revitalization, Business, & Military Affairs, then to the Committee on Finance
		721	Committee on Water, Land, & Ocean Resources, then to the Committee on Finance
		782, SD1	Jointly to the Committee on Labor & Public Employment and the Committee on Economic Revitalization, Business, & Military Affairs, then to the Committee on Judiciary, then to the Committee on Finance
		786, SD1	Committee on Water, Land, & Ocean Resources, then to the Committee on Judiciary
		799	Committee on Education, then to the Committee on Judiciary, then to the Committee on Finance
		843, SD1	Committee on Human Services, then to the Committee on Judiciary, then to the Committee on Finance
		848	Committee on Consumer Protection & Commerce, then to the Committee on Judiciary
		851, SD1	Committee on Human Services, then to the Committee on Judiciary, then to the Committee on Finance
		856	Committee on Judiciary
		880	Committee on Consumer Protection & Commerce, then to the Committee on Finance
		896, SD1	Committee on Economic Revitalization, Business, & Military Affairs, then to the Committee on Labor & Public Employment, then to the Committee on Finance
		906	Committee on Judiciary, then to the Committee on Finance
		930	Committee on Health, then to the Committee on Judiciary, then to the Committee on Finance
		936	Committee on Health, then to the Committee on Consumer Protection & Commerce
		937	Committee on Health, then to the Committee on Judiciary
		1055	Committee on Transportation, then to the Committee on Water, Land, & Ocean Resources

**S.C.R.**

**No. Referred to:**

44 Committee on Water, Land, & Ocean Resources

**S.B.**

**Nos. Referred to:**

53 Committee on Health, then jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary

107 Committee on Transportation, then to the Committee on Judiciary

108 Committee on Human Services, then to the Committee on Judiciary

112 Committee on Human Services, then to the Committee on Judiciary

113 Committee on Health, then jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary

121, SD1 Committee on Consumer Protection & Commerce, then to the Committee on Finance

162 Committee on Education, then to the Committee on Finance

205, SD1 Committee on Economic Revitalization, Business, & Military Affairs, then jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary

208 Jointly to the Committee on Public Safety and the Committee on Labor & Public Employment, then to the Committee on Finance

230, SD1 Committee on Health, then to the Committee on Judiciary, then to the Committee on Finance

259 Committee on Judiciary

309 Jointly to the Committee on Public Safety and the Committee on Labor & Public Employment, then to the Committee on Finance

384 Committee on Education, then to the Committee on Transportation, then to the Committee on Finance

438 Committee on Education, then to the Committee on Judiciary

461, SD1 Committee on Energy & Environmental Protection, then to the Committee on Consumer Protection & Commerce

- 1108 Committee on Hawaiian Affairs, then to the Committee on Water, Land, & Ocean Resources, then to the Committee on Finance
- 1120 Jointly to the Committee on Education and the Committee on Labor & Public Employment, then to the Committee on Finance
- 1142, SD1 Committee on Health, then jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary, then to the Committee on Finance
- 1215 Committee on Legislative Management, then to the Committee on Judiciary, then to the Committee on Finance
- 1622, SD1 Committee on Labor & Public Employment, then to the Committee on Economic Revitalization, Business, & Military Affairs, then to the Committee on Finance

### SUSPENSION OF RULES

On motion by Representative Evans, seconded by Representative Pine and carried, the rules were suspended for the purpose of considering certain House bills for Third Reading by consent calendar. (Representative Takai was excused.)

### CONSENT CALENDAR

### UNFINISHED BUSINESS

At this time, the Chair stated:

"At this time, there will be no discussion, as these are items agreed to by the Body for placement on the Consent Calendar. For those who would like to submit written comments, you may do so by the end of today on these measures that are on the consent calendar."

At 9:10 o'clock a.m. Representative Evans requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 9:10 o'clock a.m.

At 9:11 o'clock a.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 9:19 o'clock a.m.

At this time, the Chair stated:

"Members, once more, let me state for the record that we are adopting the Standing Committee Reports on pages 1 through 16, and that the House Bills listed on page 1 to 21, as may be amended, pass Third Reading. This is the Consent Calendar, so there is no discussion, but you may submit your written comment, for or against these measures."

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 703) recommending that H.B. No. 366, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 366, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MANTA RAYS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 704) recommending that H.B. No. 874, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 874, HD 2, entitled: "A BILL FOR AN ACT RELATING TO RESIDENTIAL REAL PROPERTY," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 705) recommending that H.B. No. 1414, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1414, HD 1, entitled: "A BILL FOR AN ACT RELATING TO METAL," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 716) recommending that H.B. No. 267, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 267, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE MOTOR VEHICLE RENTAL INDUSTRY," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative McKelvey, for the Committee on Economic Revitalization, Business, & Military Affairs presented a report (Stand. Com. Rep. No. 718) recommending that H.B. No. 319, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that .B. No. 319, HD 1, pass Third Reading, seconded by Representative Evans.

Representative M. Lee's written remarks are as follows:

"Mr. Speaker, I stand in support of HB 319 HD1. This bill would require employees to post and keep posted employee entitlements to family leave, as well as possible adverse impacts of taking family leave.

"Mr. Speaker there is a considerably large discrepancy between the types of family leave that employees offer, and what the employees know are offered to them. For example, according to surveys done in 2007 by the Executive Office on Aging and the Joint Legislative Committee on Family Caregiving, 80% of employers surveyed offer paid bereavement leave, while only 4.7% of the employees surveyed knew of this benefit. Over 66% of the employers also offer leave without pay, but only 5% of the employees knew about it. By making this information available to employees, this bill would help family caregivers and others to plan ahead for family emergencies and to avoid taking actions which might affect their retirement benefits.

"Mr. Speaker, doing more to inform workers about their employment rights is always a good thing, and Hawaii's employees need easy access to this information. We are just two years away from the first of the 'baby boomers' to reach 65, and the need will only continue to escalate as our community ages.

"I urge my fellow colleagues to support HD319, HD1."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 319, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FAMILY LEAVE," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Finnegan voting no, and with Representative Takai being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 720) recommending that H.B. No. 1422, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No.

1422, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ABANDONED VEHICLES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 721) recommending that H.B. No. 869, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 869, HD 1, entitled: "A BILL FOR AN ACT RELATING TO RENTAL MOTOR VEHICLES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 773) recommending that H.B. No. 556, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 556, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Magaoay's written remarks are as follows:

"Mr. Speaker, I rise in strong support of House Bill 556 House Draft 2 Relating to Veteran Burial Grants. Mr. Speaker, On July 26, 1941, President Franklin D. Roosevelt issued Military Order No. 81, placing the Philippine Commonwealth Armed Forces and the Special Philippine Scouts under the United States Armed Forces command to join the military assault against the Japanese forces in defense of America's democracy thereby making them eligible for equal benefits.

"Throughout 1941-1946, tens of thousands of Filipino soldiers were held as prisoners, risking their lives and the lives of their families while maintaining underground battles against the invading Japanese forces and boldly assisting the United States Armed Forces in its campaign to liberate the Philippines.

"Filipino wartime veterans, many of whom were permanently disabled and honorably discharged from the military after serving more than ninety days on active duty military service during World War II became eligible for federal veterans' benefits and services.

"Mr. Speaker, former President Bill Clinton on October 17, 1996, former President George W. Bush on July 26, 2001, and the United States Congress by House Resolution Number 622 on September 13, 2006, recognized and proclaimed the vital role that the Filipino wartime soldiers played in assisting the United States Armed Forces to defeat the invading Japanese forces in defense of freedom.

"Despite these formal acknowledgements of Filipino and Filipino American veterans' contributions to the cause of the United States during World War II, have not received veterans' benefits and services from the federal government, a long standing moral injustice that needs to be corrected. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 556, HD 2, entitled: "A BILL FOR AN ACT RELATING TO VETERAN BURIAL GRANTS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 778) recommending that H.B. No. 1207, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1207, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMUNITY-BASED ECONOMIC DEVELOPMENT," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 780) recommending that H.B. No. 1429, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1429, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Sagum's written remarks are as follows:

"Mr. Speaker, I rise in support of H.B. 1429 HD2, Making an Appropriation for the About Face Program.

"H.B 1429 recognizes the significant role the Hawaii National Guard plays in the training and development of at-risk youth to become future contributing members of society by first keeping them in school and second, helping them to successfully graduate.

"The Hawaii National Guard's About Face Programs are now entering its sixth year of operation having served 2,000 plus youth annually statewide. Its mission is to provide positive youth development programs during after school and non-school hours that are designed to help at-risk and not at-risk youth, ages 10 - 19, statewide, focus on: alternative activities that steer them away from immersion into juvenile crime, family strengthening, prevention and reduction of teen pregnancies, and drug awareness issues that will contribute to the prevention and reduction of teen drug use and abuse.

"The Department of Defense contracts with six (6) social service agencies statewide to carry out the service delivery of its About Face programs.

"The youth that we serve come from diverse ethnic, socio-economic status, and psycho-social backgrounds. Many are from low-income families with histories of involvement with the juvenile justice or child welfare services system.

"Youth attend a class after school or during the summer break at 39 sites located on all islands except Niihau. Many classes take place in Hawaii Army National Guard Armories throughout the State. Some students completing their programs enroll in yet another and sequential curriculum chosen from the various age appropriate About Face programs. Other students apply their learning to their school work with the goal of better grades, promotion to the next grade level and eventual graduation from high school. Still others apply their recently acquired life and work readiness skills to find part-time jobs to help supplement their family's income.

"This bill will provide much needed positive role models to youth who are faced with a daily barrage of mixed messages from the media that on one hand, promotes "Just say no to drugs!" and on the other hand, the Hollywood industry that glamorizes drugs, criminal pursuits of fast money and popularizes sex to the level that confuses and pollutes the impressionable minds and developing attitudes of youth. Through National Guardsmen and women, dedicated curriculum instructors and facilitators, the youth receive a different take on life and their future. They learn through decision-making and critical thinking skills development that there is always a choice. That you don't have to join the neighborhood gang. That you don't have to have sex at 11 years old. That you don't have to end up in Juvenile Detention or jail. These role models, mentors and teachers must somehow tell their students, especially the very socially and economically oppressed ones, that there is hope, there is resolution, there is a way out.

"True, there are those youth who although enveloped in urban blight, profound poverty and surrounded by ignorance and want, somehow manage to succeed in life through their own stubborn resiliency and sheer determination. However, there are not many of these self-made attorneys, physicians and professionals and we find fewer of them every day. We are long past the days of Oliver Twist where a child remains inherently good, kind, and decent regardless of his bleak environment and situation. Now, we have TV, the Internet and the movie industry constantly assaulting our

youth with propaganda to form a new mindset. Thus, the after school About Face programs are very much needed in today's latchkey society.

"In summary, the Department of Defense remains committed to the youth of Hawaii in delivering its About Face programs statewide and in remote places such as Waimea, Waianae, Molokai, Lanai, Hana, Pahala, Naalehu, Keaiakēkua and Honokaa that are in dire need of such programs to keep teens and adolescents gainfully occupied and out of trouble.

"On behalf of the Department of Defense and for the sake of the children, I urge you to support this bill, now about to crossover to the Senate, as my colleagues in the House have. Thank you, very much."

Representative Tokioka's written remarks are as follows:

"In support. House Bill 1429 HD2 makes an appropriation for the National Guard's About Face Program. This legislation is aimed at helping the Hawaii National Guard serve at-risk youth. The National Guard uses this program to promote a healthy lifestyle and fulfill its mission of community service by helping disadvantaged youth. The About Face Program works to develop valuable life skills, such as filling out job applications, balancing a checkbook, problem-solving, critical thinking, budgeting and working with computers. The About Face Program also provides children and teenagers with valuable after-school activities, while also allowing our National Guard members to serve their communities.

"The About Face Program is truly valuable, and even in this current time of economic difficulty, the Legislature cannot afford to allow such a worthwhile program to falter. I support this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1429, HD 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE ABOUT FACE PROGRAM," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 781) recommending that H.B. No. 1831, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1831, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MILITARY AFFAIRS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 783) recommending that H.B. No. 703, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 703, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 785) recommending that H.B. No. 739, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 739, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TEMPORARY ASSISTANCE TO NEEDY FAMILIES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 786) recommending that H.B. No. 1064, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1064, HD 1, entitled: "A BILL FOR AN ACT MAKING AN

EMERGENCY APPROPRIATION FOR THE DEPARTMENT OF HUMAN SERVICES TO ADDRESS THE BUDGET SHORTFALL," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 788) recommending that H.B. No. 1354, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1354, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CHILDREN," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 794) recommending that H.B. No. 814, HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 814, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Magaoay's written remarks are as follows:

"The purpose of House Bill No. 814 HD2 is to specify the renewal period for the recertification of certified nurse's aides and to limit the number of continuing education hours for their certification.

"Mr. Speaker, this bill is important because it not only benefits our Filipino community who make up the majority of the certified nurse's aides work force, but it will also benefit the people of Hawaii who are offered an alternative to expensive, institutional long term care services.

"I support the significant contributions healthcare professionals, volunteer nurses and instructors who dedicate themselves to improve the health of Hawaii's people and at the same time meet our high standards of health care.

"Thank you Mr. Speaker, and I ask my colleagues to support me on this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 814, HD 2, entitled: "A BILL FOR AN ACT RELATING TO NURSE AIDES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 797) recommending that H.B. No. 1057, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1057, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE OF HAWAII COLLEGE SAVINGS PROGRAM," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 798) recommending that H.B. No. 123, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 123, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 800) recommending that H.B. No. 363, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No.

363, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AFFORDABLE HOUSING," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 802) recommending that H.B. No. 1071, HD 2, as amended in HD 3, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1071, HD 3, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE SERVICERS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 807) recommending that H.B. No. 895, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 895, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I rise to speak in support of HB 895 HD 2, relating to tax on tobacco products other than cigarettes.

"I agree with the purpose of this bill which is to deter the use of tobacco products other than cigarettes such as snuff, cigars and pipe tobacco by way of increasing the tax on these products. I had the opportunity to hear about this bill from some of the future voters from my community on this very measure. Lea Pigao, a friend of my niece, showed me the kinds of products being offered. They looked and smelled like candy.

"One third of the additional funds realized from the increased tax will be used to fund the community health centers special fund which helps educate our population on the health risks of these tobacco related products.

"I urge my colleagues to vote in favor of the bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 895, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAX ON TOBACCO PRODUCTS OTHER THAN CIGARETTES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 808) recommending that H.B. No. 896, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 896, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOBACCO," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 813) recommending that H.B. No. 1293, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1293, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LAW ENFORCEMENT," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 819) recommending that H.B. No. 623, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 623, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Karamatsu's written remarks are as follows:

"I rise in support. State identification is vital for seniors, children, and other individuals who do not possess a driver's license or other picture identification. Currently, obtaining a state identification card (certificate of identification) is a lengthy process because processing and administration is conducted at a single location with limited hours of operation. This leads to long lines and some individuals are turned away due to the daily demand. There have been recent attempts to bring state identification personnel into the community, but only for specific dates and times.

"Community members and organizations such as the Waipahu Neighborhood Board recognize that the City & County of Honolulu's Satellite City Halls are convenient locations for State identification processing. Satellite City Halls provide services with extended hours, weekend availability, and convenient locations.

"The authority to process and issue State identification cards is vested in the Attorney General. The purpose of this bill is to allow the Attorney General to contract with one or more counties to process and issue State Identification cards at Satellite City Halls or other locations. 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. 623, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE IDENTIFICATION," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 820) recommending that H.B. No. 779, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 779, pass Third Reading, seconded by Representative Evans.

Representative Karamatsu's written remarks are as follows:

"I rise in support. This bill enacts the Uniform Foreign Country Money Judgments Recognition Act and in so doing, replaces and updates similar law codified as chapter 658C, HRS. It updates former law by, among other things, allocating burden of proof with respect to application of law, setting out procedure for obtaining recognition of foreign country money judgments, expanding grounds for denying recognition and allocating burden of proof to do so. Finally, it establishes statute of limitations. 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. 779, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM FOREIGN-COUNTRY MONEY JUDGMENTS RECOGNITION ACT," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 821) recommending that H.B. No. 782, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 782, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Karamatsu's written remarks are as follows:

"I rise in support. This bill adopts the Uniform Mediation Act. It provides certain rules for mediations and establishes a privilege that assures confidentiality of mediations in legal proceedings. In addition, the measure protects integrity and knowing consent through provisions that provide exceptions to the privilege, limits disclosures by the mediator to

judges and others who may rule on the case, requires mediators to disclose conflicts of interest, and assures that parties may bring a lawyer or other support person to the mediation session. 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. 782, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM MEDIATION ACT," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 822) recommending that H.B. No. 1025, HD 1, pass Third Reading.

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 Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 823) recommending that H.B. No. 1065, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1065, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE DEPARTMENT OF HUMAN SERVICES TO ADDRESS THE BUDGET SHORTFALL," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 824) recommending that H.B. No. 1094, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1094, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PERMANENCY HEARINGS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 825) recommending that H.B. No. 1103, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1103, entitled: "A BILL FOR AN ACT RELATING TO FEDERAL FINANCIAL ASSISTANCE FOR INDEPENDENT LIVING SERVICES AND CENTERS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 828) recommending that H.B. No. 179, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 179, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL FACILITIES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 829) recommending that H.B. No. 618, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 618, pass Third Reading, seconded by Representative Evans.

Representative Karamatsu's written remarks are as follows:

"I rise in support. This bill enacts the Uniform Prudent Management of Institutional Funds Act to replace and update the existing Uniform Management of Institutional Funds Act. It provides guidance and authority to charitable organizations concerning the management and investment of funds held by those organizations. In addition, the measure provides additional protections for charities and also protects the interests of donors. It also modernizes rules governing expenditures from endowment funds. Further, the bill gives institutions ability to cope more easily with fluctuations in the value of the endowment. Finally, it updates provisions governing the release and modification of restrictions on charitable funds to permit more efficient management of these funds. 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. 618, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS ACT," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 830) recommending that H.B. No. 1031, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1031, entitled: "A BILL FOR AN ACT RELATING TO CHAPTER 480, HAWAII REVISED STATUTES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 831) recommending that H.B. No. 1061, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1061, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 832) recommending that H.B. No. 1062, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1062, entitled: "A BILL FOR AN ACT RELATING TO GAS PIPELINE SYSTEMS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 835) recommending that H.B. No. 1059, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1059, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Magaoay's written remarks are as follows:

"Mr. Speaker, this bill will minimize disruption of service to customers and will provide advance warning to excavators with location of underground facilities prior to excavating.

"This bill will allow continued operation of the State's One Call Center beyond the current sunset date of June 30, 2009 by making the law permanent. This will prevent accidental damage to underground facilities with minimal disruption of service to our residents.

"Thank you Mr. Speaker, and I ask my colleagues to support me on this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1059, HD 2, entitled: "A BILL

FOR AN ACT RELATING TO THE ONE CALL CENTER," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 836) recommending that H.B. No. 1060, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1060, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLICATION OF HEARING NOTICES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 838) recommending that H.B. No. 180, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 180, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 839) recommending that H.B. No. 395, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 395, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EARLY LEARNING," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 845) recommending that H.B. No. 279, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 279, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ENERGY," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 847) recommending that H.B. No. 370, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 370, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Tokioka's written remarks are as follows:

"In support. The purpose of this bill is to reduce the cost of energy production from diesel fuel, by reducing the Hawaii license tax from two cents to one cent per gallon, and to undo the inadvertent application of other fuel tax increases set upon diesel sold for the purposes of power generation.

"Naphtha" is a new cleaner-burning fuel source and is cheaper than diesel. It is new to the State and is therefore not defined in Hawaii Fuel Tax Laws. Act 103 ( 2007) clarifies that naphtha fuel, used in power-generating facilities, is subject to the fuel tax rate of one cent per gallon, not the State tax rate of 16 cents per gallon, and the county transportation tax rate of 13 cents per gallon. KIUC annually uses 15 million gallons of naphtha fuel. At the current 16 cents per gallon State transportation tax rate, this would result in a \$2.4 million annual tax liability, while the current 13 cents per gallon County of Kauai fuel tax rate, would result in a \$2 million annual tax liability.

"Due to the large dollar impact to KIUC members, if the sunset provision is not repealed, KIUC may be forced to burn diesel in their

naphtha generator. This will result in a less efficient plant with higher emissions and operating costs. This will also result in no net tax revenue gain for the State of Hawaii, and in our current economic climate, this is an opportunity to generate revenue that we cannot pass up.

"In an effort to lead the way in renewable energy generation, KIUC's Strategic Plan calls for them to be at 50% renewable energy generation by 2023. This is more aggressive than the State's proposed 40% by 2030. KIUC's next unit of generation will be able to burn multiple fuels, including renewable biofuels. KIUC member/shareholders will bear the investments in renewable energy, and economics and reliability should be properly evaluated.

"In summary, applying road taxes to fuel that will never be used for transportation-related causes is unfair to those consumers purchasing that fuel, and I support this bill and its intent to correct such a mistake. This legislation will help reduce the burden placed upon local residents and businesses by the ever-increasing costs of electricity, and will make sure that the revenue from taxes levied on power generating fuel will not be mistakenly used for other purposes."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 370, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 848) recommending that H.B. No. 371, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 371, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Tokioka's written remarks are as follows:

"In support. The purpose of House Bill 371 is to make permanent the one cent per gallon tax set on naphtha fuel for power generating facilities. Naphtha fuel is a cleaner-burning, more environmentally friendly source of power than diesel and other liquid fuels, and we should do everything we can to promote its use in Hawaii.

"Act 209 (2007) is accountable for the one-cent addition to the license tax, but it was not intended to be applied to diesel oil sold or used for power generation purposes. Act 209 was supposed to help promote the use of transportation fuels containing alcohol through an exemption of the excise tax on retail sale of fuels containing at least 10% alcohol.

"This bill will ensure that naphtha sold for the purpose of power generation will remain exempt from fuel tax increases that were intended to support our highway infrastructure. This, in itself, is a worthy cause, but not one that should be laid at the feet of our power producers. On average, KIUC burns 15 million gallons of diesel annually which amounts to an additional \$150,000 tax liability. This bill will help to ensure that our most modern power generation plants are able to continue to use cleaner burning, more environmentally friendly naphtha fuel whenever possible."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 371, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 849) recommending that H.B. No. 426, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 426, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST SEAWATER AIR CONDITIONING PROJECTS ON OAHU," passed

Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 853) recommending that H.B. No. 1491, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1491, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ETHANOL FACILITY TAX CREDIT," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 854) recommending that H.B. No. 1627, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1627, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 855) recommending that H.B. No. 1628, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1628, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST BIOENERGY HAWAII, LLC," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 856) recommending that H.B. No. 1678, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1678, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 858) recommending that H.B. No. 1768, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1768, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Tokioka's written remarks are as follows:

"In support. This measure raises the ceiling for construction contracts from \$25,000 to \$50,000. This raise in the procurement bid ceiling will not only expedite the process for smaller projects to get underway, but will also ensure that we continue to provide work for the construction industry. This ultimately will benefit the community as a whole."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1768, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 860) recommending that H.B. No. 427, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 427, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS TO ASSIST ONE PLANET PACIFIC

ENERGY, LLC, A PROCESSING ENTERPRISE," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 861) recommending that H.B. No. 986, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 986, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SCHOOL FACILITIES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 862) recommending that H.B. No. 1807, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1807, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WATER QUALITY," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 868) recommending that H.B. No. 381, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 381, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE STATE OF HAWAII ENDOWMENT FUND," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 870) recommending that H.B. No. 960, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 960, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TOURISM AUTHORITY," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 872) recommending that H.B. No. 1471, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1471, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Magaoay's written remarks are as follows:

"Mr. Speaker, the purpose of HB 1471 HD2 is to establish a pilot program within the Department of Agriculture to develop safe food certification for farms that form agricultural cooperatives which establish a purchasing agreement with our local agricultural communities.

"There is a need to support the certification of farmers throughout the State to meet standards for a safer food supply. This would be a great partnership which would increase our local market supply of fresh and safe cuisine for our hotels and restaurants.

"I believe it is imperative that we promote locally grown produce while making sure that food safety will be a priority to all concerned. This bill will accomplish these goals.

"Thank you Mr. Speaker, and I ask my colleagues to support me on this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1471, HD 2, entitled: "A BILL

FOR AN ACT RELATING TO FARMS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 875) recommending that H.B. No. 685, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 685, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE STATE FIRE COUNCIL," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 876) recommending that H.B. No. 686, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 686, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REDUCED IGNITION PROPENSITY CIGARETTES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 877) recommending that H.B. No. 954, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 954, HD 1, entitled: "A BILL FOR AN ACT RELATING TO A MAJOR DISASTER RESERVE TRUST FUND," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 879) recommending that H.B. No. 1014, HD 2, as amended in HD 3, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1014, HD 3, entitled: "A BILL FOR AN ACT RELATING TO ENHANCED 911 SERVICES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 880) recommending that H.B. No. 1568, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1568, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Magaoay's written remarks are as follows:

"Thank you, Mr. Speaker. Mr. Speaker, I rise in strong support of House Bill 1568, House Draft 1. Mr. Speaker, the American Red Cross is a volunteer-led humanitarian organization whose mission is to prevent and alleviate human suffering by helping people prevent, prepare for, and respond to emergencies, and providing disaster relief to the people of Hawaii. Although established by Congressional Charter in 1905, the American Red Cross is NOT a government agency and must rely on the generosity of Hawaii's people to provide critical services to the community. All disaster training, services, and financial assistance to victims is free. I strongly urge this body to support House Bill. No. 1568 HD1 in assisting the American Red Cross, Hawaii State Chapter, with needed capital improvement projects.

"The Hawaii Red Cross renders aid to victims of about 100 disasters in Hawaii per year with food, clothing, shelter, rental assistance, and mental health counseling for everything from everyday house fires to major disasters like hurricanes, earthquakes, and floods. In addition, they teach about 35,000 people per year how to prepare their families, schools, and businesses for a disaster.

"The majority of disaster victims are the poorest of the poor. Up to 82% of them live in low to moderate income areas, and at least 34% live below poverty level. The majority make less than \$25,000 per year. Over half do not own their homes and have no property insurance, so they are truly destitute after a fire destroys everything they own or claims the life of a loved one. Hardening of the Red Cross headquarters building to protect renovated assets and ensure continuity of operations during times of disasters will require funding for hurricane screens and film for doors and windows, generators to continue operations at headquarter and neighbor island offices, retaining wall and lanai to prevent flooding and mud in room where disaster volunteers assemble. Additional building renovation needed to create disaster storage space and solar panels for clean reliable energy.

"The Hawaii Red Cross 30 year old headquarters building has never undergone any kind of upgrade or renovation, is badly in need of repair and maintenance, is not ADA compliant and has no disaster operation center. This headquarters building coordinates statewide operation of 8 other Red Cross offices on Neighbor Isles and military bases. Major renovation has been completed, but there is not enough funding to protect this renovated building. It is still vulnerable to hurricanes and major floods, and there is no generator to operate the building after a disaster strikes. Improvements are needed to ensure the continuance of statewide disaster relief and safety services to the people of Hawaii for everyday and major disasters. This funding will make a difference between being prepared or not.

"In making this appropriation, you will ensure the Hawaii Red Cross will be there to respond after disaster strikes throughout the islands. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1568, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE AMERICAN RED CROSS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 881) recommending that H.B. No. 1776, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1776, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 888) recommending that H.B. No. 1166, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1166, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PASSENGER FACILITY CHARGE SPECIAL FUND," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 891) recommending that H.B. No. 262, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 262, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE FRAUD," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 892) recommending that H.B. No. 1045, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that .B. No. 1045, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Har's written remarks are as follows:

"Mr. Speaker, I stand in support of Standing Committee Report No. 892, House Bill 1045 House Draft 1, Relating to the Hawaii Housing Finance and Development Corporation (HHFDC). This bill would clarify the authority of HHFDC to modify and amend development agreements for housing projects between HHFDC's predecessor, the Housing Finance and Development Corporation, and eligible developers, as well as authorize HHFDC to impose fees to recoup program administrative expenses for loans, grants, services, and real estate documents.

"This bill makes housekeeping amendments to Chapter 201H, Hawaii Revised Statutes. This would help HHFDC cover administrative costs, and thereby preserve more of its fiscal assets for use in developing and preserving affordable housing statewide. For this reason, I stand in support. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1045, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 894) recommending that H.B. No. 1074, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1074, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 897) recommending that H.B. No. 1373, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1373, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 898) recommending that H.B. No. 553, HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 553, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL ENTERPRISE ZONES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 899) recommending that H.B. No. 994, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 994, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOURISM," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 902) recommending that H.B. No. 243, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that .B. No. 243, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Tokioka's written remarks are as follows:

"In support. House Bill 243 will help to ensure that Hawaii's farmers have access to reliable sources of irrigation water. By allocating funds for specific irrigation systems across the islands, as well as for a general agricultural water development plan, this bill takes into account the need for a comprehensive, state-wide plan of action that focuses on area- and county-specific needs. We will need both in order to ensure the survival of our State's agricultural industry, and I believe that this bill could be a useful tool to further that cause."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 243, HD 2, entitled: "A BILL FOR AN ACT RELATING TO IRRIGATION SYSTEMS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 903) recommending that H.B. No. 975, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 975, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL WATER SYSTEMS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 904) recommending that H.B. No. 36, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 36, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 908) recommending that H.B. No. 1451, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that .B. No. 1451, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I support of HB 1451, HD 2 which will continue to provide financial support for Hawaii high tech industry via credit while also mitigating revenue losses to the State by placing a limit of \$50,000,000 on the aggregate of credits claimed in a taxable year beginning after December 31, 2009 by all taxpayers for investments in Qualified High Tech Business (QHTB).

"I understand the concerns of opponents of credits, yet I think that in the long-run, providing local high-tech entrepreneurs a reason to locate initially in the islands is a good thing. This bill recognizes the benefit of attracting high-tech businesses to Hawaii with tax credit incentives so that we can provide high tech jobs to our people, yet rein in any potential abuses that the tax credit provides to those QHTBs in Hawaii. The bill fine tunes the treatment of high-tech credits under Chapter 235 of the Hawaii Revised Statutes so that only those QHTBs who are truly committed to providing additional jobs to our people will get tax credit to initially help the QHTB in starting up in Hawaii. The bill also provides sources of revenue for the State through fees generated by certain comfort letters and certifications issued by Department of Tax.

"In the future, we do need to work on other quality of life, education and workforce improvement issues that impact whether high tech business will stay in Hawaii even after these credits are gone.

"Overall, this is a good compromise for high tech businesses and for the State of Hawaii. I urge my colleagues to vote in favor of the bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1451, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 909) recommending that H.B. No. 983, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 983, HD 1, pass Third Reading, seconded by Representative Evans.

Representative M. Lee's written remarks are as follows:

"Mr. Speaker, I rise in strong support of HB 983 HD 1, the Majority Package Safe Routes to School Bill.

"Mr. Speaker, we all know rush hour traffic is horrendous. This is because far too many of Hawai'i's 180,000 public school students are personally chauffeured to school by parents who feel the roads are too dangerous for their children to walk or bike there, themselves. This self-fulfilling prophecy becomes true because, then, there really are too many cars on the road.

"There is a federal program, started four years ago, to fund community planning efforts and the construction of infrastructure for the creation of Safe Routes to School (SRTS). This program was intended to provide funds for programs like the walking school bus and the installation of traffic calming road treatments around Hawai'i's 257 public schools. The funds were also earmarked for community planning.

"We have HB 983 before us, Mr. Speaker, because there has been little action on the part of our responsible state agency to fully implement this program. HB 983 requires the Department of Transportation (DOT) to conduct a statewide pupil travel evaluation to learn how students get to school. This is a problem not only for the counties and the DOE, but also for the sState, and we need to work together to fix it.

"HB 983 requires the Director of the DOT, in consultation with the Department of Education, the Department of Health, and Hawaii Association of Independent Schools, to use the information obtained to disperse the funds for SRTS school-based workshops and community-based planning projects. After five years and \$5 million dollars appropriated, there are still over 82 percent of those funds waiting to be used.

"By passing HB 983, the funds will help reduce vehicular travel and congestion by encouraging walking and bicycling and, most importantly, empowering the community to come together to solve the traffic problem.

"HB 983 requires the DOT to work with the community organizations that have received or applied for SRTS grants to streamline the funding process. Helping these community organizations help Hawai'i's kids get on bikes and walk to school is a crucial part of the SRTS vision.

"Last, HB 983 requires the DOT to come back to the Legislature, report on efforts and progress, so we can see improvements in multi-modal, balanced transportation planning and the creation of Safe Routes to School. 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. 983, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 911) recommending that H.B. No. 442, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 442, entitled: "A BILL FOR AN ACT RELATING TO THE LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 912) recommending that H.B. No. 602, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 602, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 916) recommending that H.B. No. 1051, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1051, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY EMERGENCY PREPAREDNESS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 917) recommending that H.B. No. 1152, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1152, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMITTED PERSONS' ACCOUNTS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 919) recommending that H.B. No. 1125, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1125, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CERTAIN FUNDS UNDER THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 920) recommending that H.B. No. 1390, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1390, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I rise to speak in support of HB 1390, HD 2 which increases the fee schedule of compensation for medical care in worker's compensation cases to an unspecified percent of fees prescribed in the Medicare resource-based relative value scale applicable to Hawaii as prepared by the U.S. Department of Health and Human Services. The current allowable fee which has a cap of 110% of fees prescribed in the Medicare resource-based relative value scale drastically limits the number of medical providers who could provide medical services to injured workers. By increasing the medical fee schedule, more medical providers will be willing to take in injured workers who need medical care. If we wish to support our medical doctors, it's measures like this that will make sure they will come to Hawaii and be able to make a living in Hawaii.

"I urge my colleagues to vote in favor of the bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1390, HD 2, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 921) recommending that H.B. No. 1550, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1550, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 922) recommending that H.B. No. 1676, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1676, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC WORKS," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Marumoto voting no, and with Representative Takai being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 927) recommending that H.B. No. 1417, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1417, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Magaoay's written remarks are as follows:

"Mr. Speaker, this purpose of this bill is to close a loophole that allows persons to place banners and other advertising devices for others on their vehicles or trailers for compensation, as long as the vehicles or trailers are not used primarily to display advertising.

"I believe by changing the current Hawaii law, we will close the loophole that enables some companies who work around our system which was designed to reduce billboards and inappropriate advertising in our islands.

"We have the opportunity to preserve our island beauty from commercial advertising for future generations and the quality of life of our residents.

"Thank you Mr. Speaker, and I ask my colleagues to support me on this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1417, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOBILE BILLBOARDS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 930) recommending that H.B. No. 332, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 332, HD 2, pass Third Reading, seconded by Representative Evans.

Representative M. Lee's written remarks are as follows:

"Mr. Speaker, I stand in support of H.B. 332 H.D. 2, which is a Women's Caucus measure relating to employment security for victims of domestic violence.

"HB 332 provides that victims of domestic violence will not be denied unemployment insurance if they are separated from their work because of abuse, if they have to move to avoid future violence against themselves or their children, or if they have to obtain treatment from being injured by their abuser.

"HB 332 also provides that a domestic violence victim's suspension or discharge from work will not be considered misconduct under the law and will not effect their eligibility for unemployment benefits. Women often fear being stalked while going to work, or fear that violence could happen at home or at work. They are at risk of losing their employment because of the chaos surrounding them. It is nearly impossible to find employment living under threats of violence.

"Fear of losing financial security is often the main reason domestic violence victims return to their abusers, so it is very important to allow victims to assert their independence with the assistance of unemployment benefits. With these financial resources, women can escape the destructive relationships they're trapped in, leave these abusive situations, achieve safety, pick up the pieces of their lives and start the healing process. 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. 332, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 934) recommending that H.B. No. 1552, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1552, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 935) recommending that H.B. No. 1766, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1766, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I rise to speak in support of HB 1766, HD 2 which addresses the woeful conditions of our small boat harbors and helps to implement the Recreational Renaissance initiative of the Department of Land and Natural Resources (DLNR). This bill allows the State to responsibly raise revenues to repair Ala Wai and Keehi Harbors by allowing limited issuance of commercial use permits for vessels with assigned moorings in those harbors.

"The bill also authorizes the DLNR to enter into a public-private partnership to develop portions of Ala Wai Boat harbor facilities that are presently under-utilized to maximize the revenue potential from this harbor. Additional revenues will reduce overreliance by DLNR on higher mooring fees to support long overdue improvements to these two harbors.

"To allay safety concerns of the Ala Wai Harbor recreational boaters and nearby surfers who cross the passageway from the harbor to the open water from time to time, the number of commercial use permits is limited to fifteen percent (15%) of the total berths and vessels are limited to 65 feet in length.

"The bill also provides for a cost-of-living index increase to keep up with the increasing maintenance cost of the harbors.

"Altogether, this is a responsible measure that emphasizes that the main purpose of the Ala Wai and Keehi harbors remains recreational, and yet provides for essential revenues by allowing a very limited amount of commercial activity.

"I urge my colleagues to vote in favor of the bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1766, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SMALL BOAT HARBORS," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Brower voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 941) recommending that H.B. No. 899, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 899, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 942) recommending that H.B. No. 1015, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1015, HD 1, entitled: "A BILL FOR AN ACT RELATING TO OBLIGATIONS OF THE DEPARTMENT OF HAWAIIAN HOME LANDS TRUST FUND," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 943) recommending that H.B. No. 1665, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1665, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAIIAN FISHPONDS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 944) recommending that H.B. No. 541, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 541, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL SERVICE PERSONNEL," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 945) recommending that H.B. No. 1479, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1479, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LABOR," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 949) recommending that H.B. No. 984, HD 3, as amended in HD 4, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 984, HD 4, pass Third Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks are as follows:

Thank you, Mr. Speaker. I rise to speak in support of HB 984, HD 4 which will create a new Hawaii Communication Commission. This new commission will be responsible for broadband regulation, broadband franchising and broadband permitting in a flexible, timely and responsible way. This bill, based largely on recommendations found in the Hawaii Broadband Task Force created by Act 2 of the 2007 Legislature, intends to advance broadband within the State of Hawaii.

"This bill will ensure high-speed broadband services at affordable prices available to the general public. High-speed broadband services are essential for the advancement of education, health, public safety, research and innovation, civic participation, e-government, economic development and diversification, and public safety and services.

"This bill will also foster an open and transparent government because it will seek to increase a flexible, timely and responsible access to public rights-of-way and public facilities for broadband service providers.

"Passage of this bill helps position Hawaii for global competitiveness in the twenty-first century.

"I urge my colleagues to vote in favor of the bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 984, HD 4, entitled: "A BILL FOR AN ACT RELATING TO TECHNOLOGY," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 950) recommending that H.B. No. 1536, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1536, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SALARIES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 952) recommending that H.B. No. 271, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 271, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 956) recommending that H.B. No. 991, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 991, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 958) recommending that H.B. No. 183, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 183, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 961) recommending that H.B. No. 1464, HD 2, as amended in HD 3, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1464, HD 3, entitled: "A BILL FOR AN ACT RELATING TO ENERGY RESOURCES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 963) recommending that H.B. No. 1526, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1526, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 967) recommending that H.B. No. 1470, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1470, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAII PUBLIC PROCUREMENT CODE," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 970) recommending that H.B. No. 1809, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1809, HD 2, entitled: "A BILL FOR AN ACT RELATING TO RECYCLING," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

### THIRD READING

#### H.B. No. 813, HD 1:

Representative B. Oshiro moved that H.B. No. 813, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I rise to speak in support of HB 813, HD 1. This bill, which designates a language access month to publicize government services providing language assistance, is entirely fitting. More than any other state, Hawaii has been built on being welcoming to immigrants and making opportunities equally available to immigrants. As Hawaii continues to be a crossroad in the Pacific, we benefit by allowing our residents with limited English proficiency to access government services that enable them to be self-sufficient and productive members of our community. This bill promotes more awareness of the available services and educates all of us of the importance of such services in fostering a more cohesive and dynamic society.

"I strongly support the bill."

The motion was put to vote by the Chair and carried, and H.B. No. 813, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LANGUAGE ACCESS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

#### H.B. No. 921, HD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 921, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

#### H.B. No. 1148, HD 1:

Representative B. Oshiro moved that H.B. No. 1148, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Tokioka's written remarks are as follows:

"In support. As a Neighbor Island Representative, I am in strong support of any measure that will help streamline the notification process for meetings, hearings and briefings etc. for our Neighbor Island constituents. Requiring all state meeting notices to be posted on the state calendar would eliminate duplication and centralize the postings to one easily accessible location that would adhere to Sunshine Law and support the public who wish to participate in the legislative process."

The motion was put to vote by the Chair and carried, and H.B. No. 1148, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC AGENCY MEETINGS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

#### H.B. No. 294, HD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 294, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PERSONAL LIABILITY OF TRUSTEE TO THIRD PARTIES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

#### H.B. No. 1512, HD 1:

Representative B. Oshiro moved that H.B. No. 1512, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Karamatsu's written remarks are as follows:

"I rise in support. A goal of mine is to play a small role in helping survivors of domestic violence. There are cases where an individual has threatened to harm not just his partner, but his partner's pet. Unfortunately, pets get caught in the crossfire of an abusive relationship. Therefore, House Bill 1512, House Draft 1 addresses this threat by authorizing the family court, when issuing a temporary restraining order, to award exclusive care of a pet animal or equine animal and enjoin the restrained party from having any contact with the animal. Under the Hawaii Revised Statutes section 711-1100, "Pet animal" means a dog, cat, domesticated rabbit, guinea pig, domesticated pig, or caged birds (*passeriformes*, *piciformes*, and *psittaciformes* only) so long as not bred for consumption and "equine animal" means an animal of or belonging to the family *Equidae*, including horses, ponies, mules, donkeys, asses, burros, and zebras. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 1512, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TEMPORARY RESTRAINING ORDERS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

#### H.B. No. 130, HD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 130, HD 1, entitled: "A BILL FOR AN ACT RELATING TO JUDGMENTS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

#### H.B. No. 1751, HD 1:

Representative B. Oshiro moved that H.B. No. 1751, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Karamatsu's written remarks are as follows:

"I rise in support. This bill updates existing statutes relating to cable television and telecommunications service fraud to address an expanding array of technology services offered by communication companies that include cable television and telecommunications, Internet-based, or wireless distribution networks. It establishes the offense of

communication service fraud in the first and second degrees, provides civil remedies, authorizes forfeiture, and establishes evidentiary presumption. The purpose of the measure is to discourage theft of cable television and telecommunications service. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 1751, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMUNICATIONS FRAUD," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

**H.B. No. 570, HD 1:**

Representative B. Oshiro moved that H.B. No. 570, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. The amendments in HB 570, HD 1 address some of the challenges of climate change in a state where the coastal zone is an important area for recreation, subsistence and residential use. The bill aims to clarify, among other things, the importance of maintaining public access in a meaningful way in the coastal zone, and the protection of shorelines for present and future recreational purposes, and the proper criteria for the counties to consider in creating shoreline setbacks and the regulations for applying those setbacks.

"Given the reality of climate change, the bill authorizes tools to minimize the damage from coastal hazards including tsunamis, hurricanes, wind, storm waves, flooding, erosion, sea-level rise, subsidence, and pollution. The bill also requires the use of shoreline erosion data for setback purposes as appropriate and encourages the use of early planning, variances for innovative design, and minimum buildable areas.

"For these reasons, I am voting in favor of the bill."

The motion was put to vote by the Chair and carried, and H.B. No. 570, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COASTAL ZONE MANAGEMENT," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

**H.B. No. 589, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 589, HD 1, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY FACILITIES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

**H.B. No. 590, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 590, HD 1, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY FACILITIES," passed Third Reading by a vote of 48 ayes to 2 noes, with Representatives Berg and Thielen voting no, and with Representative Takai being excused.

**H.B. No. 1047, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 1047, HD 1, entitled: "A BILL FOR AN ACT RELATING TO IMPORTANT AGRICULTURAL LANDS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

**H.B. No. 730, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 730, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CRUELTY TO ANIMALS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

**H.B. No. 1229, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 1229, HD 1, entitled: "A BILL FOR AN ACT RELATING TO NOTICE," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

**H.B. No. 1415, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 1415, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SERVICE OF PROCESS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

**H.B. No. 632, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 632, HD 1, entitled: "A BILL FOR AN ACT RELATING TO POLICY ADVISORY BOARD ON VETERANS' SERVICES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

**H.B. No. 35, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 35, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INCOME TAX CREDIT," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

**H.B. No. 214, HD 1:**

Representative B. Oshiro moved that H.B. No. 214, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Sagum's written remarks are as follows:

"Mr. Speaker, I rise in strong support of HB214, HD1, Authorizing the Issuance Of General Obligation Bonds and Making an Appropriation for Wailua Emergency Bypass Road Repair and Resurfacing, and Waimea Wastewater Treatment Plant Upgrades for the County of Kauai.

"The Bill provides an appropriation of \$6 million for fiscal year 2009-2010 to assist Kaua'i County with upgrades to the Waimea Wastewater Treatment Plant (WWTP). The project is anticipated to cost approximately \$12 million, and the County will fund the difference between any appropriated State funds and the total project cost.

"The funds will be used to expand the capacity and upgrade the Waimea WWTP, which treats wastewater from the community of Waimea, Kaua'i. Users of the plant include the public schools in the Waimea area as well as the Kaua'i Veterans' Memorial Hospital, which is part of the State's Hawai'i Health Systems Corporation.

Benefits of the West-side project include:

1. Ability to lift present capacity restrictions, by allowing new connections, including connections for the development of affordable housing and business expansion; and
2. Upgrades in effluent water quality to meet standards for irrigation reuse and improve water quality on the coastal plain between Waimea and Kekaha; and
3. Solar electric capacity in order to offset the energy requirements associated with the plant expansion.

"The Wailua Emergency Bypass road repair funds are sorely required, as there is ONLY one road to get from Waipouli to Lihue. IF a fatal accident occurs on any part of the highway, residents and visitors have no way to get to Lihue and the airport. Unfortunately, that corridor has had more than its share of fatalities in recent years, and residents and visitors have experienced delays of two or more hours.

"Mr. Speaker, the upgrading of the Waimea Wastewater Treatment Plant is very important to the growth of the West Side of Kauai and the Wailua

Emergency Bypass road repair funds are important to the East side of the island. I strongly support this bill."

Representative Tokioka's written remarks are as follows:

"In support. HB 214 is intended to appropriate funds for the County of Kaua'i to repair the Wailua emergency bypass road and upgrade the Waimea wastewater treatment plant. These capital improvement projects are not only necessary, but long overdue.

"The Wailua bypass road is the only access between the county seat of Līhu'e and the largest population centers on Kaua'i when the main State highway is closed. Closures occur frequently, because of weather emergencies and traffic accidents. The route experiences almost 90 major traffic accidents a year. When fatalities are involved, the State highway must be closed for hours, cutting off residents of the North and East sides of the island from the airport, the major hospitals and medical centers, and University of Hawai'i facilities. The State Department of Transportation is planning alternatives to the main highway, but implementation is years away. The planned improvements to the bypass are of a basic nature – resurfacing and installation of basic safety features such as guardrails and signage to enable its continued use during emergency closures.

"The Waimea wastewater treatment plant upgrade will be used to make improvements necessary for reliable sewer service to private and public customers in Waimea, including the Kaua'i Veterans' Memorial Hospital and Waimea area public schools. The upgrade will also improve effluent water, resulting in better water quality on the coastal plain between Waimea and Kekaha. The Waimea wastewater treatment plant is currently running at over 90 percent capacity, causing the County of Kaua'i to restrict new sewer connections due to the facility's limitations. The upgrade will allow the County to lift present capacity restrictions, allowing new connections for the development of affordable housing and business expansion in Waimea.

"I can clearly see the need for State funds to support these capital improvements, and as such, I support this bill."

The motion was put to vote by the Chair and carried, and H.B. No. 214, HD 1, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS AND MAKING AN APPROPRIATION FOR WAILUA EMERGENCY BYPASS ROAD REPAIR AND RESURFACING, AND WAIMEA WASTEWATER TREATMENT PLANT UPGRADES FOR THE COUNTY OF KAUA'I," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

#### **H.B. No. 573, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 573, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY AND BUDGET RESERVE FUND," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

#### **H.B. No. 1218, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 1218, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENT PROJECTS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

#### **H.B. No. 34:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 34, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

#### **H.B. No. 694:**

Representative B. Oshiro moved that H.B. No. 694, pass Third Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I rise to speak in support of HB 694 which authorizes the Hawaii Health Systems Corporation (HHSC) and the Maui Regional System Board to remove the Maui Regional Health Care System (Maui Region) and its facilities from HHSC by transferring regional assets to a legal entity that will finance and continue to provide healthcare services to Maui residents.

"Maui Memorial Medical Center is the only hospital facility for Maui and Lanai. Given HHSC's continuing financial difficulties, this bill provides the opportunity to spin-off the Maui Region and to allow its managers to explore partnerships and other non-state financing transactions with third-parties. This measure holds the promise that the Maui Region can survive and continue to provide the level of service needed on Maui and Lanai.

"A related bill, HB 1372, which applies to all of the regional health care systems under HHSC, including the Maui Region, also allows for this possibility. I am also in support passage of these related bills to continue the dialogue on this important issue to my community and to the State.

"For these reasons, I am voting in favor of the bill."

The motion was put to vote by the Chair and carried, and H.B. No. 694, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

#### **H.B. No. 1231, HD 1:**

Representative B. Oshiro moved that H.B. No. 1231, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks are as follows:

"Mr. Speaker, I rise to speak to express my support for HB 1231, H.D.1. which would establish a transitional management team within the Hawaii Health Systems Corporation to plan for necessary restructuring to ensure the strength of the State's healthcare safety net.

"I believe this bill will allow for streamlining services while creating efficiency of operations. This will allow for restructuring functions and services by eliminating duplication of services and eliminating certain expenses without compromising quality of services.

"It is for these reasons I support this bill."

The motion was put to vote by the Chair and carried, and H.B. No. 1231, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAII HEALTH SYSTEMS CORPORATION," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

#### **H.B. No. 979, HD 1:**

Representative B. Oshiro moved that H.B. No. 979, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I rise to speak in support of HB 979, HD 1 which addresses two important environmental concerns affecting our *aina*. This bill will set aside special funds to: (1) support invasive species control and mitigation; and (2) promote reforestation and sediment run-off mitigation.

"Invasive species range from the pesky cocqui frogs that are spreading throughout our islands, to miconia that still needs monitoring and eradication, to blocking brown tree snakes that devastated the birds on the island of Guam. By investing financial resources to protect against unwanted invasive species, we preserve our fragile environment for future

generations. Even in tight economic times, guarding against harm to our natural environment are wise and prudent outlays.

"Similarly, we must nurture our environment by promoting reforestation of our forests and conservation lands. By taking these measures, we do our part in mitigating sediment run-off and thereby protecting and fostering the continued health and welfare of our residents.

"I urge my colleagues to vote in favor of the bill."

The motion was put to vote by the Chair and carried, and H.B. No. 979, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ENVIRONMENT," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Wooley voting no, and with Representative Takai being excused.

**H.B. No. 1404, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 1404, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAX," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

**H.B. No. 1495, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 1495, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE INCOME TAX," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

At 9:23 o'clock a.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 366, HD 2  
 H.B. No. 874, HD 2  
 H.B. No. 1414, HD 1  
 H.B. No. 267, HD 2  
 H.B. No. 319, HD 1  
 H.B. No. 1422, HD 1  
 H.B. No. 869, HD 1  
 H.B. No. 556, HD 2  
 H.B. No. 1207, HD 1  
 H.B. No. 1429, HD 2  
 H.B. No. 1831, HD 2  
 H.B. No. 703, HD 1  
 H.B. No. 739, HD 2  
 H.B. No. 1064, HD 1  
 H.B. No. 1354, HD 2  
 H.B. No. 814, HD 2  
 H.B. No. 1057, HD 1  
 H.B. No. 123, HD 2  
 H.B. No. 363, HD 2  
 H.B. No. 1071, HD 3  
 H.B. No. 895, HD 2  
 H.B. No. 896, HD 1  
 H.B. No. 1293, HD 2  
 H.B. No. 623, HD 1  
 H.B. No. 779  
 H.B. No. 782, HD 1  
 H.B. No. 1025, HD 1  
 H.B. No. 1065, HD 1  
 H.B. No. 1094, HD 1  
 H.B. No. 1103  
 H.B. No. 179  
 H.B. No. 618  
 H.B. No. 1031  
 H.B. No. 1061, HD 1  
 H.B. No. 1062  
 H.B. No. 1059, HD 2  
 H.B. No. 1060, HD 1  
 H.B. No. 180, HD 1  
 H.B. No. 395, HD 1  
 H.B. No. 279, HD 2  
 H.B. No. 370, HD 2  
 H.B. No. 371, HD 2  
 H.B. No. 426, HD 1  
 H.B. No. 1491, HD 2  
 H.B. No. 1627, HD 2  
 H.B. No. 1628, HD 1  
 H.B. No. 1678, HD 1  
 H.B. No. 1768, HD 1  
 H.B. No. 427, HD 1  
 H.B. No. 986, HD 1  
 H.B. No. 1807, HD 1  
 H.B. No. 381, HD 2  
 H.B. No. 960, HD 2  
 H.B. No. 1471, HD 2  
 H.B. No. 685, HD 2  
 H.B. No. 686, HD 1  
 H.B. No. 954, HD 1  
 H.B. No. 1014, HD 3  
 H.B. No. 1568, HD 1  
 H.B. No. 1776, HD 1  
 H.B. No. 1166, HD 1  
 H.B. No. 262, HD 2  
 H.B. No. 1045, HD 1  
 H.B. No. 1074, HD 2  
 H.B. No. 1373, HD 1  
 H.B. No. 553, HD 2  
 H.B. No. 994, HD 1  
 H.B. No. 243, HD 2  
 H.B. No. 975, HD 1  
 H.B. No. 36, HD 1  
 H.B. No. 1451, HD 2  
 H.B. No. 983, HD 1  
 H.B. No. 442  
 H.B. No. 602  
 H.B. No. 1051, HD 1  
 H.B. No. 1152, HD 1  
 H.B. No. 1125, HD 2  
 H.B. No. 1390, HD 2  
 H.B. No. 1550, HD 2  
 H.B. No. 1676, HD 1  
 H.B. No. 1417, HD 2  
 H.B. No. 332, HD 2  
 H.B. No. 1552, HD 2  
 H.B. No. 1766, HD 2  
 H.B. No. 899, HD 1  
 H.B. No. 1015, HD 1  
 H.B. No. 1665, HD 1  
 H.B. No. 541, HD 1  
 H.B. No. 1479, HD 2  
 H.B. No. 984, HD 4  
 H.B. No. 1536, HD 2  
 H.B. No. 271  
 H.B. No. 991, HD 2  
 H.B. No. 183, HD 1  
 H.B. No. 1464, HD 3  
 H.B. No. 1526, HD 2  
 H.B. No. 1470, HD 1  
 H.B. No. 1809, HD 2  
 H.B. No. 813, HD 1  
 H.B. No. 921, HD 1  
 H.B. No. 1148, HD 1  
 H.B. No. 294, HD 1  
 H.B. No. 1512, HD 1  
 H.B. No. 130, HD 1  
 H.B. No. 1751, HD 1  
 H.B. No. 570, HD 1  
 H.B. No. 589, HD 1  
 H.B. No. 590, HD 1  
 H.B. No. 1047, HD 1  
 H.B. No. 730, HD 1  
 H.B. No. 1229, HD 1  
 H.B. No. 1415, HD 1  
 H.B. No. 632, HD 1

H.B. No. 35, HD 1  
 H.B. No. 214, HD 1  
 H.B. No. 573, HD 1  
 H.B. No. 1218, HD 1  
 H.B. No. 34  
 H.B. No. 694  
 H.B. No. 1231, HD 1  
 H.B. No. 979, HD 1  
 H.B. No. 1404, HD 1  
 H.B. No. 1495, HD 1

At this time, the Chair stated:

"Members of the House, please remember to submit to the Clerk your list of House Bills on the Consent Calendar for which you will be inserting comments, in support or opposition, to the journal. This must be done before the adjournment of today's Floor session."

At 9:23 o'clock a.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:04 o'clock a.m.

At this time, the Chair announced:

"Members, before proceeding, let me state for the record that, if you look at the clock, the clock is an hour behind time because of the electrical shortage that occurred this morning in the State Capitol. So right now, it's about 10:05 at this point in time."

"Members, at this time we will be taking up the items on the Ordinary Calendar. We just completed our Consent Calendar and we are now moving on to the Ordinary Calendar."

"At this time Members, please note that the Chair will be moving two items to the end of calendar. On page 32, Stand. Com. Rep. No. 882, Relating to Transportation, H.B. No. 139, HD 2, to the end of calendar."

"Also, Members of the House, on page 34, Stand. Com. Rep. No. 900, H.B. No. 1187, HD 1."

"Members, at this time, the Chair will be taking an item out of order. Please turn to page 46, and I would like to refer to H.B. No. 1175, HD 2."

#### **H.B. No. 1175, HD 2:**

Representative B. Oshiro moved that H.B. No. 1175, HD 2, pass Third Reading, seconded by Representative Evans.

At this time, Representative M. Oshiro offered Floor Amendment No. 3, amending H.B. No. 1175, HD 2, as follows:

"SECTION 1. House Bill No. 1175, House Draft 2, (RELATING TO TAXATION) is amended as follows:

1. By amending section 3 to read:

"SECTION 3. This Act shall take effect on July 1, 2020."

Representative Souki rose to speak in opposition to the measure, stating:

"On H.B. No. 1175, is the motion to pass this measure? Then, I wish to record a 'no' vote."

At 10:07 o'clock a.m. Representative B. Oshiro requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:07 o'clock a.m.

Representative M. Oshiro moved that Floor Amendment No. 3 be adopted, seconded by Representative M. Lee.

The motion was put to vote by the Chair and carried, and Floor Amendment No. 3, amending H.B. No. 1175, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," was adopted with Representative Takai being excused.

At 10:07 a.m., Floor Amendment No. 3 was adopted and H.B. No. 1175, HD 3 was placed on the calendar for action on Thursday, March 12, 2009.

### **ORDINARY CALENDAR**

#### **UNFINISHED BUSINESS**

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 766) recommending that H.B. No. 1171, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative B. Oshiro moved that notwithstanding the recommendations contained in Standing Committee Report No. 766, that H.B. No. 1171, HD 1, be recommitted to the Committee on Finance, seconded by Representative Evans.

Representative Finnegan rose to speak in opposition to the motion to recommit, stating:

"Thank you, Mr. Speaker. I am speaking in opposition to the motion to recommit. On the process. I will try my best to stay within process. Thank you, Mr. Speaker. I believe that if this bill is recommitted, that this bill will be then killed. And if this bill is killed, there are consequences to that, Mr. Speaker."

"I rise with objections to the motion to recommit. Excuse me, Mr. Speaker. I'm trying to figure out how I speak about this, in opposition to the recommitment. Mr. Speaker, because we are recommitting the bill, and it kills the bill, I find it very difficult to discuss this bill without even referring a little bit to the bill. Can I have some leeway on it?"

The Chair responded, stating:

"No, if I let you a little leeway, I'll have to let everyone have leeway. So, just keep your remarks to your opposition to the process of the recommitment."

At 10:10 o'clock a.m. Representative Finnegan requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:12 o'clock a.m.

Representative Finnegan continued in opposition to the motion to recommit, stating:

"Thank you, Mr. Speaker. I will keep my comments very short. This is the Superferry bill that we are killing, and that is why I am in opposition. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 1171, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," was recommitted to the Committee on Finance, with Representative Finnegan voting no, and with Representative Takai being excused.

Representative Morita, for the Committee on Energy & Environmental Protection presented a report (Stand. Com. Rep. No. 701) recommending that H.B. No. 245, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 245, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Thielen rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. Mr. Speaker, I'm rising to speak in favor of House Bill 245, Relating to Renewable Energy Facilities. Thank you. Mr. Speaker, I think the bill is very well crafted. It contains all of the protections that we need to have, while also helping renewable energy projects move forward.

"If the Members turn to page two of the bill, it talks about, the siting of a renewable energy facility that may be allowed. It's not a 'shall' be allowed. It's not a mandate. It may be allowed. And it's very clear that the section shall not exempt renewable energy facilities from our land use and environmental protections. And, it also does not prevent any agency or authority from imposing reasonable and appropriate restrictions on the type of siting, development construction and operation of a renewable energy facility. I applaud the amenders of the bill, and I think it's a very good measure and should move forward. 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. 245, HD 1, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY FACILITIES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representatives Morita and Ito, for the Committee on Energy & Environmental Protection and the Committee on Water, Land, & Ocean Resources presented a report (Stand. Com. Rep. No. 702) recommending that H.B. No. 1351, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1351, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PRIVATE AGRICULTURAL PARKS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 706) recommending that H.B. No. 1537, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1537, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Marumoto rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Marumoto's written remarks are as follows:

"HB 1537 specifies that any person who provides for an automated external defibrillator training program is generally immune from vicarious civil liability resulting from any act or omission of a Good Samaritan attempting to use the device to resuscitate a person.

"It is a good bill, as it will encourage more businesses to have defibrillators on their premises and to train their employees to use it in an emergency. Glen Waki of Kahala and Aina Haina McDonald's has installed defibrillators in his restaurants and had the respective staff trained to implement the device. Good owners should not be sued since they are acting as Good Samaritans. Lawsuits might cause the removal of defibrillators to avoid liability. We need to encourage our business owners to have emergency equipment available and not discourage them from doing so! Mahalo."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1537, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AUTOMATED EXTERNAL DEFIBRILLATORS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 707) recommending that H.B. No. 1040, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1040, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TORT LIABILITY," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 708) recommending that H.B. No. 1316, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1316, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Har rose to disclose a potential conflict of interest, stating:

"Mr. Speaker, may I have a ruling on a potential conflict, please? At my private law firm, I do represent design professionals. Thank you," and the Chair ruled, "no conflict."

Representative Rhoads rose to speak in opposition to the measure, stating:

"Mr. Speaker, in opposition. Mr. Speaker, we already have in Hawaii, in the Uniform Contribution among Tortfeasors Act, which allows those who have been found negligent, if more than one person is found negligent for a specific incident, everyone's on the hook. The Uniform Contribution among Tortfeasors Act allows the negligent parties to take money to contribute to each other's payments so that no one gets stuck with more than their fair share.

"No one wants to be sued. I understand that, but it does seem to me that if we have an exemption for everyone, then no one can be sued. Mahalo."

Representative Karamatsu rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Karamatsu's written remarks are as follows:

"I rise in support. In cases involving tort claims relating to the maintenance and design of public highways, design professionals and public utility companies are sometimes left with liability beyond their percentage of negligence because of our current joint and severability law. This measure will help our local companies, but still protect our public by abolishing joint and several liability for design professionals and public utilities in tort claims relating to the maintenance and design of public highways, except when a design professional's or public utility's degree of negligence is 25% or more. 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. 1316, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TORTS," passed Third Reading by a vote of 40 ayes to 10 noes, with Representatives Belatti, Berg, Hanohano, Keith-Agaran, C. Lee, Luke, Nishimoto, Rhoads, Saiki and Shimabukuro voting no, and with Representative Takai being excused.

Representative Ito, for the Committee on Water, Land, & Ocean Resources presented a report (Stand. Com. Rep. No. 709) recommending that H.B. No. 865, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 865, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Har rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Har's written remarks are as follows:

"Mr. Speaker, I rise in strong support of Standing Committee Report No. 709, House Bill 865, House Draft 1, Relating to Transportation. This bill would require the Statewide Transportation Council to comply with county transportation-related plans, county general plans, and all community, development, or community development plans adopted pursuant to the county general plan, to the extent that compliance does not affect the receipt of federal funds. This bill was a recommendation of the 2007 Interim Task Force on Smart Growth Development because the Smart Growth Task Force recognizes the need to ensure that state and county plans are coordinated appropriately.

"Improving coordination between the State and counties is critical to ensure our major backbone infrastructure is planned, funded and constructed in a timely basis. As transportation funding begins to shrink at the federal level, it is important to coordinate our efforts at the State and county levels to maximize our returns.

"While the Island of Oahu has the Oahu Metropolitan Planning Organization (OMPO) to set its priorities, the Department of Transportation (DOT) sets the Statewide Transportation Improvement Program, or STIP, for the Neighbor Islands. This bill will ensure that the DOT will take into account county transportation and general plans to ensure consistency and to eliminate conflict with county plans when the STIP is implemented. Furthermore, by providing consistency between the STIP and county plans, Hawai'i will have more effective transportation systems that will better meet the transportation needs of Hawai'i's citizens.

"Finally, Mr. Speaker, as we know Hawai'i has a finite amount of land, and our development decisions will continue to affect us as our population continues to grow which is why I continue to advocate for smart growth development. HB 865 HD 1 will ensure that our transportation-related plans will be cohesive and comprehensive.

"Accordingly Mr. Speaker, I stand in strong support. Thank you."

Representative Pine rose in support of the measure, stating:

"Mr. Speaker, I am in strong support."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 865, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representatives Herkes and Karamatsu, for the Committee on Consumer Protection & Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 710) recommending that H.B. No. 1611, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1611, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. With reservations. This bill, H.B. No. 1611, House Draft 2, requires truthful labeling of meat and fish that has been gas-treated. Mr. Speaker, the bottom line is whether or not you believe that gas-treated meat and fish is dangerous to one's health. I think that's what we're here to, I guess to protect people's health.

"These products are regarded as safe by the FDA, however, there are some questions in regards to that. So, there's still time to research and debate this issue further, because it has a defective date, Mr. Speaker. So, I'm going to leave that for a later time. Thank you."

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

"Yes, Mr. Speaker. With reservations, please. Basically, as the previous speaker said, that this bill would require certain supermarkets to start

labeling their food that had been treated with a certain gas. This particular gas is used nationwide to keep meat fresh.

"My only concern is, as we, as a legislative body, despite the fact that there has been really no proof, nationwide, that this type of gas is bad for people. We, as a Body are making a determination away from the Food and Drug Administration, to say that there is something wrong with this particular process. My concern, by taking that position, that we are publicly saying to the State of Hawaii that any store that does this particular process is doing something wrong to you. I think that's just the wrong way to go about it. I understand that there's some concern, but it's a concern without true proof."

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

"Mr. Speaker, I'm also voting 'aye' with reservations. I think it might be preferable to allow people who do not treat the meats with gas to be able to allow them to say that their meats are not treated with gas. Thank you very much."

Representative Evans rose to speak in support of the measure, stating:

"Mr. Speaker, I stand in support. I know that as all things change, I think this is a time where the public is asking us to do more labeling, making more educated choices for themselves. So, I think that we should support moving this bill forward. Thank you."

Representative McKelvey rose to speak in support of the measure, stating:

"Thank you very much, Mr. Speaker. In strong support. May I have the comments of the previous speaker inserted into the Journal as if they were my own?"

"And, just real quickly, this is a disclosure item, as far as I can see. People are being told that this is fresh, and it's not. It's been gassed to preserve it beyond its life. I know of real allegorical stories of people who have gotten meat that they thought was fresh, opened it up, and ate it, and were sick. With all the food poisoning scares, and the peanut industry, and other things, this bill is all about, basically, food safety, and it's very imperative. Thank you very much."

Representative Pine rose to respond, stating:

"Just in rebuttal, Mr. Speaker. I would be happy to concede that this is something that's very important to do, if the previous speaker can provide evidence that that person did get sick from this particular treatment. It could just be that the meat was just plain bad."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1611, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LABELING OF MEAT AND FISH PRODUCTS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representatives Herkes and Karamatsu, for the Committee on Consumer Protection & Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 711) recommending that H.B. No. 812, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 812, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Mizuno rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. I rise in support of Stand. Com. Report 711, House Bill 812, House Draft 2. Thank you. At least two former United States Surgeon Generals, Antonia Novello and C. Everett Coop have declared domestic violence to be a problem of epidemic proportion nationwide.

"According to our Honolulu Police Department, up to one-third to one-half of the police officers' work time is spent responding to domestic calls. The bill before us is to protect our victims of domestic violence by allowing them to terminate their rental agreement without penalty, so long as they can confirm abuse, with a temporary restraining order, or a protective order with a written affidavit by a deputy prosecutor.

"In a domestic violence situation, victims are often faced with multiple competing challenges: escape, economic viability, appearance in court and single parenting, are only some of the difficulties they face. This measure will save lives by allowing our victims an option to flee their violent situation. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 812, HD 2, entitled: "A BILL FOR AN ACT RELATING TO DOMESTIC VIOLENCE," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representatives Herkes and Karamatsu, for the Committee on Consumer Protection & Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 712) recommending that H.B. No. 1696, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1696, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE RENTAL INDUSTRY," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

At 10:23 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 245, HD 1  
 H.B. No. 1351, HD 2  
 H.B. No. 1537, HD 1  
 H.B. No. 1040, HD 1  
 H.B. No. 1316, HD 2  
 H.B. No. 865, HD 1  
 H.B. No. 1611, HD 2  
 H.B. No. 812, HD 2  
 H.B. No. 1696, HD 2

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 713) recommending that H.B. No. 197, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 197, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Ching rose to disclose a potential conflict of interest, stating:

"Thank you, Mr. Speaker. Just a request for a ruling on a potential conflict. I serve on a board of directors of a condominium. Thank you," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 197, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 714) recommending that H.B. No. 244, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 244, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Thielen rose to speak in opposition to the measure, stating:

"Mr. Speaker I'm rising to speak against House Bill 244. Thank you. Mr. Speaker, this bill will provide lower utility rates for agricultural activities, and the lower rates are including potable water, electricity, and freight transportation. I support ag operations and their need to be able to bring their produce and other products to market. But the problem with this is, all other utility and transportation ratepayers are going to have to pay a higher rate. So, by passing this bill forward, what we're really doing is ensuring that our constituents who are not agricultural operations or operators, are going to have to pay higher utility rates for water, electricity, and transportation.

"OHA, who normally would be in favor of an ag bill of this nature, cautions that the bill has the potential to go too far, and it stated that to provide these discounted rates across the board, at the expense of other ratepayers, it could be overly burdensome, almost at the point of a tax for other ratepayers, especially in these economically-challenging times. And that is why I'm opposing the bill, Mr. Speaker."

Representative Evans rose to speak in support of the measure, stating:

"Mr. Speaker, I stand in support. I think our community overwhelmingly has said that they want agriculture to succeed, and not only that, they want to eat local foods. If the community rises up and says this is important to them, then I see that this bill really reflects what I think is an overwhelming opinion of our taxpayers that they want this for us. I think this promotes agriculture, and I ask our Members to support it. Thank you."

Representative Keith-Agaran rose to disclose a potential conflict of interest, stating:

"Yes, I'd like a ruling on a potential conflict, Mr. Speaker. My law firm represents both water public utilities, and ratepayers of water public utilities," and the Chair ruled, "no conflict."

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

"Mr. Speaker, with reservations, and I'd like to adopt the words of the speaker from Kailua. And, just additionally, when you're talking to the community in regards to whether or not they want to be supportive of agriculture, of course they're going to say 'yes.' I think we all want our food to be fresh and be grown here in Hawaii.

"But, when you put that in comparison with paying more for some of these expenses such as, we need our food, we need water, we need some of these other thing, like electricity, because it says, 'included, but not limited to' some of these services. But these costs that increase at the home level, they may have a different opinion. Thank you."

Representative Cabanilla rose to speak in support of the measure, stating:

"Mr. Speaker, I rise in support of this measure. I would say that in this Chamber, we always talk about preservation of important ag lands. We always talk about preservation of agriculture. This is one way that we can support what we say. Thank you, Mr. Speaker."

Representative Tsuji rose to speak in support of the measure, stating:

"Mr. Speaker, thank you very much. I rise in support. Thank you. Current HRS provides a mechanism for the establishment of preferential rates for potable water used in agricultural activities. This bill increases that scope of the law to provide preferential rates for any other public utility service used for agricultural activities in agricultural districts, such as electricity and freight transportation.

"I know there are concerns that preferential rates would be subsidized by all other utility ratepayers who may find that higher rates may be overly burdensome, particularly during our economically challenging times. These concerns merit further consideration. And should this bill move forward, the current language also includes a defective date of January 1,

2090. And thus, I urge my colleagues to support this measure, and encourage further discussion. Thank you, very much."

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

"Just with reservations. I have similar concerns as the previous two speakers here. However, I would much rather prefer that we allocate money through the Agriculture Department, instead of having the rest of the ratepayers pay during this economic time."

Representative Ching rose in support of the measure with reservations and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in support however, with reservations of H.B. 244 Relating to Public Utilities. Agriculture is important and we must support it, but I am concerned that utility and transportation ratepayers might have to pay higher rates as a result of this bill to subsidize agricultural utility and transportation ratepayers. The Office of Hawaiian Affairs worries that this bill might go too far and in their testimony said, 'We must be careful to ensure that the preferred rates from the public utility services are provided to ratepayers who are engaged exclusively in agricultural activities. Otherwise, the intent of this bill will be frustrated and OHA's support cannot be maintained.' 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. 244, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Thielen voting no, and with Representative Takai being excused.

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 715) recommending that H.B. No. 591, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 591, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you. This is very similar to the previous bill, and so I just wanted to vote with reservations."

Representative Pine rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Thielen rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 591, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative Tsuji, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 717) recommending that H.B. No. 1663, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1663, HD 1, pass Third Reading, seconded by Representative Evans.

Representative McKelvey rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Sagum rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Sagum's written remarks are as follows:

"Mr. Speaker, I rise in support of HB 1663: Relating to Taro Security.

"The Kauai Taro Growers Association, a 501(c) (3) nonprofit organization was registered in 1987, following in the footsteps of an organization founded by a generation before them. The registered purpose statements are as follows:

To engage in and support study and research relating to taro production and of poi and other taro products.

To disseminate information among the members relating to improved farming techniques, equipment and all other developments pertinent to the industry.

To promote the availability of land for taro production; promote the production of taro and taro products; enhance the marketing of taro and taro products; engage in all other activities for the advancement of the common interests of taro growers.

To publicize taro and taro products and to encourage their consumption by the public.

To promote mutual cooperation and encouragement among taro growers.

"The 42 farms on Kauai totaling 396 acres of taro, provides approximately 78% of the state supply (Oahu/Maui 18% and Big Island 4%), have signed to support HB1663 HD1, and have made compromises in respect for the Hawaiian culture, which will leave the Hawaiian taro varieties that they now grow vulnerable to possible diseases that may enter Hawaii.

"According to DOA, new pests and diseases are entering uninspected since 2006, due to a change in federal procedures since 9/11 that doesn't allow our State inspectors to check the 900,000+ pounds of taro entering Hawaii per year. From 1997 to 2005 there were over 345 insects, mollusks, weeds and nematodes (and this does not include possible bacteria, fungus or diseases) that the state inspectors previously stopped prior to 2006 and it would be a matter of time before the leaf blight in Samoa and disease in the Solomon Islands that decimated the taro crops arrives here. The insect vector required to transmit this disease is found in Hawaii. It is hoped that the continued research on the non Hawaiian varieties may provide a future remedy should the disease reach Hawaii.

"The taro industry has been on a steady decline from 1948 when there was 14,000,000 pounds of taro, to 6,800,000 in 2000 and now 4,300,000 pounds that correlates with the decline in taro farms. Kauai farmers also have the highest yield per acre at 13,600 lb/acre and Oahu/Maui at 10,533 lb/acre and Big Island at 4,222 lb/acre.

"The following calculation is the amount of servings per week that the Kauai taro farmers supply the State.

$$\begin{aligned} 4,300,000 \times 78\% &= 3,354,000 \text{ lbs from Kauai} \\ 3,354,000 \text{ lb} \times 4 \text{ (servings per lb)} &= 13,416,000 \text{ servings} \\ 13,416,000 \text{ servings} / 52 \text{ weeks} &= 258,000 \text{ servings per week} \end{aligned}$$

"Everyone is encouraged to educate themselves on the research that has been done and know that there are ways to use genetic engineering in a secure facility that will not allow the results to escape nor allow public access to avoid previous destructive acts at experimental areas with plants destroyed, mistakenly thought to be genetic modified plants, and that could lead to the release of results of the study. Research being conducted on the Chinese Bun Long variety has resulted in stopping the leaf blight problem that plagues current organic and conventional taro production and lead to solving the severe leaf blight disease that decimated the taro in Samoa.

Genetic engineering could focus on this particular aspect in which researchers can identify the gene that could fight the disease and look for similar genes in the current varieties and then use the hand pollination method to cross breed and create a variety resistant to leaf blight. This method would be more efficient in finding the correct crosses that would

work instead of the trial and error method that leads to creating hundreds of crosses and then go through a process of elimination.

"Education is needed on how cross pollination occurs with taro and that the odds are about 2 billion to one, of taro cross pollinating in the field, which would be similar to someone never leaving their home because they are afraid that a meteor may strike them. Bun Long which has been in Hawaii for 150 years as stated in this bill has never crossed with the Hawaiian varieties. Have the Hawaiian varieties cross pollinated with each other? And if it did, the only way to check would be to utilize genetic engineering to find out.

"The farmers have also compromised to avoid the cross pollination issue all together, by agreeing to the amendment that there be no open field testing and that all open field testing be conducted outside of Hawaii. The farmers also want to make it very clear that there are no GMO taro planted and that there are no GMO taro to be planted.

"The farmers are worn down by this issue for the past three years and would like to go back to the fields, spend their time farming and focus on ways to remedy the many other challenges facing them daily.

"Mr. Speaker, it is time to let the taro farmers do their farming. Thank you."

Representative Shimabukuro rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Shimabukuro's written remarks are as follows:

"Mr. Speaker, I rise to speak in strong support of House Bill 1663 HD1, which prohibits the development, testing, propagation, release, importation, planting, or growing of genetically modified Hawaiian taro. It also prohibits certain activities related to GMO non-Hawaiian taro.

"Legislation to protect this valuable cultural and nutritional agricultural resource had a rough, and ultimately disappointing, ride in this Body during the 2008 session. With this bill, we have a fresh opportunity to redeem ourselves and do what it right to preserve Hawaiian taro for present and future generations.

"As Vice-Chair of the Committee on Hawaiian Affairs, I have heard compelling testimony from Native Hawaiians, grassroots farmers, concerned scientists and academics, and a widely diverse number of individuals who want to preserve *kalo* as it has been handed down through the generations. I am also pleased that this bill is also designed to preserve and protect to some extent varieties of non-Hawaiian taro as well.

"I also realize that this bill is not perfect. It needs more work as it moves ahead through the remainder of the Session. Some of the suggested amendments that have come to my attention are: no non-Hawaiian taro shall be genetically modified outside an enclosed laboratory to which public access is either prohibit or strictly regulated; no genetically modified non-Hawaiian taro shall be released within or imported to the State of Hawaii. There will no doubt be other amendments put forth – some desirable, others less so – but the important thing is to keep the momentum going ... and ultimately produce a law that will truly protect our precious taro resource.

"I urge my colleagues to join me in supporting HB 1663."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1663, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TARO SECURITY," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Hanohano voting no, and with Representative Takai being excused.

Representative McKelvey, for the Committee on Economic Revitalization, Business, & Military Affairs presented a report (Stand. Com. Rep. No. 719) recommending that H.B. No. 1272, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1272, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Finnegan rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. This bill, Stand. Com. No. 719 makes clarifying amendments to the Electronic Waste Recycling Act by making minor revisions to the terms, 'covered electronic device' and 'manufacturer.'

"Mr. Speaker, actually, I'm not really in favor of the clarifications. I'm actually pretty curious as to who this will affect. But, I'm going to be voting 'no,' and, my 'no' vote is because I'm not in favor of the Electronic Waste Recycling Act. I do not believe that development of this State-run program is necessary, as many manufacturers and industry associations provide extensive information on their websites about how and where to recycle their electronic products, Mr. Speaker. And, I'm just not that fond of State-run programs. Thank you."

Representative Evans rose to speak in support of the measure, stating:

"Mr. Speaker, in support. We have moved into the information age, and the technology age. With electronic waste, the volume is unimaginable. What's going to happen to us over the next years to come? We have got to set the groundwork, and I applaud the Chair moving this forward.

"This issue has been around for many, many years. It started out as a Resolution to look at it. I think people see it as a problem, and I, again, think we have to move forward on this issue. 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. 1272, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRONIC WASTE RECYCLING," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Finnegan voting no, and with Representative Takai being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 722) recommending that H.B. No. 1593, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1593, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I'd like to note my reservations and make a few comments. Mr. Speaker, I understand that the impetus for this bill is to assist with a conflict between certain lessees and a land owner. I guess I'm really just concerned about this bill because in some of the testimony, it was brought to our attention that this bill might be a violation of the contract clause, under both the Hawaii State Constitution and the U.S. Constitution.

"Again, I want to stress that I understand the nature of the conflict and that this bill is being cast as a way to support small, local businesses. And for that reason, I can see why it might be something favorable to do. However, it does concern me, regarding these constitutional questions. Thank you, Mr. Speaker."

Representative Karamatsu rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Karamatsu's written remarks are as follows:

"I rise in support. Small businesses and farms are an essential element in strengthening and diversifying Hawaii's economy and creating jobs for our people and despite their contribution to Hawaii's economy, small businesses and farms are at a disadvantage in terms of land ownership. The commercial, industrial, and farm properties that exist within the State's

districts are primarily owned by a few landowners. These landowners control large tracts of land and retain their ownership by means of leases to small businesses and farms, which in turn supply services and products for our community.

"The purpose of the first part of this bill is to stabilize Hawaii's economy by addressing some of the burdensome or vague provisions of existing commercial and industrial leases of certain lands within urban districts by clarifying provisions in long-term commercial and industrial ground leases, without substantial reduction in the economic benefit to the landowners or impact on their ownership of the land, without impairing their lease contracts, and without the taking of any property rights without due process of law. House Bill 1593, House Draft 1 states:

Notwithstanding any other law to the contrary and unless expressly stated to the contrary in the lease, any lease of commercial or industrial leasehold property shall be subject to the following terms and conditions:

- (1) Whenever a lease existing on July 1, 2009, or entered into thereafter, provides for the renegotiation of the rental amount or other recompense during the term of the lease and the renegotiated rental amount or other recompense is based, according to the terms of the lease, in whole or in part on a fair and reasonable annual rent as of the commencement of the term, that provision shall:
  - (A) Be construed to require that the rent shall be fair and reasonable to both the lessor and the lessee to the lease; and
  - (B) Take into account any and all relevant attendant circumstances relating to the lease, including:
    - (i) Past renegotiation practices and policies throughout the previously renegotiated lease rents;
    - (ii) The uses and intensity of the use of the leased property during the term of the lease approved by the lessor;
    - (iii) The surface and subsurface characteristics of the leased property and the surrounding neighborhood of the leased property on the renegotiated date; and
    - (iv) The gross income generated by the lessee on the renegotiated date; and
- (2) Unless otherwise specified in the lease, if the lessee has subtenants with subleases that provide for recovery by the lessee of ground lease rent, those subtenants shall be charged their pro rata share of the fair and reasonable annual rent as renegotiated pursuant to this section.

"In the second part of this bill, the purpose is to carry out the mandate of Article XI, section 3, of the Hawaii Constitution to conserve and protect agricultural lands and assure availability of agriculturally suitable lands.

"The Legislature finds that the land use law was enacted to "preserve and protect land best suited for . . . agricultural purposes and to facilitate sound and economical urban development" (Senate Standing Committee Report Number 580; 1961 Senate Journal). Since that time, however, lands classified by the land study bureau as class A and class B lands, the lands most suited for intensive agricultural use, have declined from three hundred fifty-nine thousand six hundred ninety acres (Class A, one hundred twenty-five thousand one hundred sixty acres; class B, two hundred thirty-four thousand five hundred thirty acres) in 1960 to one hundred seventy-two thousand ninety-four acres (Class A, fifty-six thousand six hundred fifty-three acres; Class B, one hundred fifteen thousand four hundred forty-one acres) in 2007. These agricultural lands are a resource that cannot be replaced once they are lost to development.

"The inventory of lands that are suitable for agriculture is essentially fixed. Unlike other agricultural inputs, agricultural lands cannot be manufactured when the demand for them increases. In 1960, the land

study bureau estimated that there were nearly three hundred sixty thousand acres of class A and B lands on the six major islands. These were the lands upon which the State depended for profitable, competitive agricultural production. By 2007, the inventory of class A and B lands had declined to slightly more than one hundred seventy-two thousand acres, making it more important than ever to conserve Hawaii's most productive agricultural lands, especially in counties with a population of over five hundred thousand residents.

"Part two of this bill provides that whenever any agreement or document for the lease of private agricultural lands with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class A or B for agricultural use in counties with populations of over five hundred thousand provides for the renegotiation of the rental amount and the term of the lease, and the lessee has made improvements or is seeking to make improvements on the land, the renegotiated term of the lease shall include an extension of the lease for a period of not less than seventy-five per cent of the original term of the lease.

"Further, the measure requires that for a boundary amendment for agricultural lands with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class A or B, no amendment of a land use district boundary shall be approved in counties with a population of over five hundred thousand where: (1) A farming operation as defined in Hawaii Revised Statutes section 165-2 is being conducted on the land; (2) The land is important for agriculture based on the stock of similarly suited lands in the area; (3) The district boundary amendment will harm the productivity or viability of existing agricultural activity in the area; and (4) The district boundary amendment will cause fragmentation of or intrusion of nonagricultural uses into largely intact areas of agricultural lands with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class A or B. These requirements will help to protect some of our most valuable and productive agricultural lands. Thank you."

Representative Ching rose in support of the measure with reservations and asked that the remarks of Representative Belatti be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative McKelvey rose in support of the measure, stating:

"Mr. Speaker, I am in strong support."

Representative C. Lee rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Saiki rose to speak in opposition to the measure, stating:

"Mr. Speaker, I rise in opposition to this measure. This is House Bill 1593. It is the first of a line of somewhat troubling bills today that are attempting to impair existing commercial contracts. Although bills enacted by the Legislature enjoy a constitutional presumption, the presumptions should not apply here, because this bill, as previously mentioned, violates the contracts clause of the U.S. Constitution.

"The test for the contracts clause is comprised of three factors. The first is whether the statute operates as a substantial impairment of a contractual relationship. Second, whether the statute is designed to promote a significant and legitimate public purpose. And third, whether the statute is a reasonable and narrowly drawn means of promoting a significant and legitimate public purpose.

"I would submit that this legislation meets none of these criteria for the following reasons. First, this bill rewrites provisions that are contained in existing contracts. Second, this legislation does not set forth a significant and legitimate public purpose, and the Legislature has not conducted any recent due diligence to determine whether or not commercial lease rents are or are not burdensome.

"The most recent due diligence that this Body has conducted was done in 2003, when we asked the Legislative Reference Bureau to conduct a study on commercial lease rent. That study was completed in 2003, and

one of the conclusions that the LRB found was, quote unquote, 'lease rents are probably right where they should be.'

"Whether we agree with that conclusion or not today, the fact of the matter is, that there is no other legislative finding on this specific issue that justifies this legislation.

"The third reason that this bill is not constitutional, is that it is not reasonable and it is not narrowly drawn to promote a public purpose. Even if there is a public purpose, and there is not, this bill is arbitrary, and does not even consider other alternatives to address this specific situation, such as by creating incentives for lessors to lower their commercial lease rent. Thank you."

Representative Shimabukuro rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Ching rose in support of the measure with reservations and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in support however, with reservations of H.B. 1593 – Relating to Real Property. While I agree and sympathize with the tenants, I do have a concern that this bill is targeted at one group of people and may end up effectively changing agreed upon terms of previously negotiated long term commercial and industrial lease contracts. Proponents of this bill have candidly admitted before the Senate Committee that they are pushing this bill as leverage in their negotiations. I am also concerned that this bill will limit the ability to freely negotiate leases in a manner that best suits the business requirements of both the lessor and lessee. Agreements to provide lower lease rents at the beginning of a long term lease to allow the lessee to grow their business in exchange for a long term commitment by the lease to maintain and improve the property may no longer be feasible under the provision of this bill. By prohibiting the enforcement of higher standards for the repair, maintenance, and surrender, the overall maintenance of properties may decline, impacting both subject property and the surrounding community. Thank you."

Representative B. Oshiro rose to speak in support of the measure, stating:

"Mr. Speaker, I rise in support. Very briefly, I'd just like to counter, I think, some of the criticisms as to the constitutionality of this measure.

"First and foremost, the question is whether it is a substantial impairment of the contract clause. I don't believe that it is, because all this is doing is finding a definition for what is fair and reasonable. Most of the commercial leases say 'fair market rent.' And so, therefore what you do is you look at the market value prevailing throughout that area, or that county, or the state, and you determine what is 'fair and reasonable.'

"Unfortunately, this lease term is subject to renegotiation every 10 years. And because it doesn't say anything about market; all it says is 'fair and reasonable,' all the landlord needs to do is put forth some justification to state that it's reasonable. And so all they need to do is say, 'I'm going to make this the best commercial property you've ever seen. I'm going to make substantial infrastructure improvements. I'm going to make the roads great. I'm going to make a great building,' and all of those things. As long as they can show that it's reasonable, they therefore get to bump up the lease rents by five times, ten times, per square foot. And that's what we're faced with, with this issue.

"And so it's for that reason, I think, we need to really look at this, because, unfortunately, when the new landlord came in, they did not go with the previous practice of the Damon Estates. And that, unfortunately, has put the lessees into a very untenable situation.

"In these days and times of economic downturn, where our small businesses are already struggling, I don't think that it's anywhere near fair to be asking them to pay 5 times or 10 times more their square-foot rent, in

these economic times, where very, very few people are able to make it as it is. Thank you, very much."

Representative Ward rose to speak in support of the measure, stating:

"Mr. Speaker, I rise in support, and with the hat of a former small businessman who basically was in business with my landlord, because every time I made a dollar, there was a huge percentage. And, I don't think we're breaking a lease so much as we're shooting a 'shot across the bow' of guys who are either part of the local oligopoly, or those who have come in from the mainland who can do the 100, 200, 300, 400 %, and basically decimate the heart of the small business community, because there's only, what, eight to twelve percent of the land in circulation, which otherwise is taken off because of huge ownership.

"There's such an imbalance that's going on, Mr. Speaker. And some of these rents are just prohibitive. What we've got to do is tell them, we don't want rent control, but we don't want them also to go crazy and knock everybody out, just because they're trying to bleeding another 100% or 50% out of the lessees.

"So, I think this piece of legislation will serve to put sobriety and sincerity in the renegotiations, at least for the sake of halting some of the stuff that's chasing a lot of people away. And it's not only just the small 'mom and poppers', it's substantially large businesses who don't own the land, but they own the buildings, and their businesses are in jeopardy. And they are the ones who hire the people who make Hawaii work. Thank you, Mr. Speaker."

Representative McKelvey rose in support of the measure and asked that the remarks of Representative B. Oshiro be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1593, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY," passed Third Reading by a vote of 43 ayes to 7 noes, with Representatives Berg, Hanohano, Luke, Morita, Nishimoto, Saiki and Takumi voting no, and with Representative Takai being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 723) recommending that H.B. No. 1784, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1784, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Keith-Agaran rose in opposition to the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I rise to speak in opposition of HB 1784, HD 2 which purports to alleviate the perceived crisis of doctors leaving Hawaii. The approach in this measure is reckless, wrongheaded and generally based on faulty assumptions, and fanciful use of facts and comparisons. There are a number of bills moving through this body today, including HB 1636, HD 1; HB 310, HD 2; HB 1316, HD 2; and HB 1037, HD 2, which tip the balance of fairness towards the wrong doer and against the victim, but this is the most egregious.

"One major concern with this bill is that it unnecessarily reduces or takes away rights of patients who may have valid and substantial injuries as a result of a medical provider's negligence. Section 3 of the measure reduces the statute of limitations for medical tort claims- from 2 years to 1 year after the patient discovers or should have discovered the malpractice. It also reduces the outside limit of bringing suits from 6 years to 3 years.

"In the case of minors, the measure not only shortens the limitation period from 6 years to 3 years, but also changes the outside limit in the case of minors and effectively shortens what we understand as childhood

from 16 years old to 8 years old. We have this kind of limitations period to balance the need to protect minor children with some certainty on when a claim must be sought. This proposed "reform" impacting victims who are minors effectively sacrifices these children on an insurance company's altar of actuarial certainty.

"Proponents argue that high malpractice premiums charged by the doctor-run and owned insurance company providing coverage to Hawaii's physicians are the primary cause of doctors leaving practice in Hawaii. Putting aside the fallacy in that premise, I simply object to skewing rights of patients to chase a Holy Grail of lower malpractice premiums. The key to lower malpractice is to follow the simple maxim of "Do no harm." Since the Insurance Commissioner reports that the carrier covering Hawaii's doctors has paid out excess premiums to its members regularly in recent years, it appears that the insurance company has enjoyed good years and the Hawaii payout experience merits a return of excess premiums to Hawaii's doctors. With that kind of recent experience for the carrier, it belies me why this bill did not include a premium rollback as a condition of these drastic changes.

"This bill supposedly addresses a shortage of doctors practicing in certain specialties, particularly in rural areas, as well as to reduce the alleged high malpractice insurance premiums that these medical specialties pay. The Hawaii Medical Association (HMA), a primary proponent of the wish list of harsh changes in this bill, asserts that many doctors are leaving the state primarily due to high medical malpractice insurance premiums. Yet HMA offered no substantiated facts in support of this contention. HMA also claims that there is a flight of doctors from Hawaii because of the so called high premiums. However, the record of registered physicians at the Department of Commerce and Consumer Affairs (DCCA) shows that there has been an increase of licensed physicians in Hawaii for years 2000 to 2009. The data shows that in 2000, there were 3,044 licensed physicians and in 2009 there were 3,925 licensed physicians, an increase of almost one-third over the nine year period.

"The so-called reformers also argue that this bill will solve the dearth of specialty physicians in the rural areas. However, this problem is not unique to Hawaii. The problem affects every rural area across the country. Medical malpractice tort limitations and caps on damages will not solve this problem. It has not solved the problem in rural areas of California or Texas, both of which have enacted caps on damages.

"There is also the lie that there is an explosion of lawsuits against doctors practicing in Hawaii, and that somehow a lawsuit explosion is to blame for the higher malpractice premiums. The Legislature addressed lawsuits against doctors previously by creating a screening procedure that has effectively deterred the filing of frivolous medical malpractice lawsuits: the Medical Claims Conciliation Panel (MCCP). Under Hawaii law, medical claims must first be submitted to the MCCP before a lawsuit can be filed. Furthermore, a claim cannot be filed unless a doctor in the same specialty who is a member of the panel finds that the claim has merit. The MCCP annual reports show that medical malpractice claims filed in Hawaii has been reduced by 42% from 2001 to 2008. The claims that have gone before the MCCP screening panel have dropped from 173 in 2001 to 100 in 2008. And as for allegations of frivolous claims, the MCCP panel found 2 claims to be frivolous in the last 4 years and 11 over the past 15 years; this is less than 1% of all the claims that MCCP heard. Finally, the number of medical claims that actually ended up in courts shows that there is a substantial reduction of cases filed, from 55 in 2002 to 40 in 2008. As for cases that actually ended up going to trial, only 11 cases went to trial in the past five years. That amounts to roughly about 2 cases per year. These facts demonstrate that there is no explosion of malpractice claims, lawsuits and trials.

"Mr. Speaker, it's perplexing that we are addressing a perceived problem in ways that only harm important rights of our regular residents. Making changes to our existing medical tort laws should not be based on a whim. The facts do not warrant radical obliterations of the rights of those who have valid and reasonable claims for their injuries arising from negligent care from their providers. The system is not broken, so let's not fix it. For all of these stated reasons, I will be voting against this bill."

Representative Rhoads rose to speak in opposition to the measure, stating:

"Mr. Speaker, in opposition. Mr. Speaker, in the year 2008, there were exactly 3,917 physicians and surgeons in Hawaii. In that same year, 2008, the Medical Claims Conciliation Panel accepted, or 100 claims were accepted with the MCCP. So that means for 3.9% of the doctors in 2008, a claim was filed against them. What that also means is that the average doctor in Hawaii gets sued once every 39 years. The number of doctors in Hawaii has actually increased since 2000. In 2000 there were over 3,044. Now there are 3,925.

"The number of claims that have been filed with the MCCP has dropped from 173, which is still a tiny number, considering how many doctors visits, surgeries, and medical procedures are done every year. That number has dropped to 100 in 2008.

"I understand that there's a problem on the Neighbor Islands in particular, with the availability of medical care, but this bill isn't going to make any difference in terms of improving that situation. Thank you."

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

"Thank you, Mr. Speaker. I rise with reservations on this bill. This bill tries to move us forward with a very important issue of medical tort reform. I support this bill, as it is a way to continue moving forward. Capping non-economic damages is an important part of medical tort reform, and caps on non-economic damages do not come into effect until economic damages reach \$1.5 million in this bill.

"The median settlement awarded in a jury verdict of this nature is \$235,000. The deletion of the section of attorneys fees, along with the elimination of a non-economic cap for the awards, less than \$1.5 million in economic damages, dilutes severely the reform aspect of this bill.

"I appreciate the work of the Chairs of Judiciary and Health, as I know that this issue is very difficult to deal with. However, my hope is that this bill returns from the Senate with more of a reformed aspect to it.

"Mr. Speaker, the previous speaker spoke about doctors in general, and how there're more doctors. Well, we can also take a look at my mom, my father, and how it's not easy to get doctor's appointments, especially in these fields. You can tout, and you can speak about all of these numbers of many doctors that exist out there, but services also continue to climb, and more people using these services continue to climb. And, we're talking about specialties in the medical field.

"So, if you're going to start talking about all of these doctors, when this bill covers specialties of doctors, I didn't think that the speaker was providing the type of evidence to get to the way the things that are in this bill in regards to specialty areas of medical practice.

"So, Mr. Speaker, I hope that this improves, but I am still with reservations on the bill. Thank you."

Representative Pine rose to speak in support of the measure, stating:

"Yes, just in rebuttal of the Labor Chair. As the previous speaker mentioned, some statistics were a little skewed. I can just tell you, for example, orthopedic surgeons have said that they get sued several times a year. And that is one of the reasons why they're leaving in mass droves. Yes, I'm speaking in support. Thank you, Mr. Speaker."

Representative Ching rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. Also in support. At least this is a beginning, and I applaud the Chairman for beginning this, though it is far from perfect. If you talk to doctors, you will hear the reality of what's going on. And I think there were a number of panel discussions earlier in this Session. And I think that this is an area that the public has also expressed their concern. They know that their own doctors are deciding to leave the field, especially in the specialties that we mentioned."

Representative Cabanilla rose to speak in support of the measure, stating:

"In support, Mr. Speaker. And I'll be very brief. I just want to thank the Chair of Health and Judiciary for taking this on. This is my fifth year in this Chamber, and I'm really happy that we're having this discussion on medical tort reform, because I think it's something that we should have accomplished years ago.

"This is a small measure to appease our specialty doctors to stay where they're at, and a way of us expressing to them that we are listening to them. That they have a part in this Chamber. That their interests are also being discussed. Out there in the field they feel that their interest is not heard, and that this chamber is full of lawyers, and their interest are not being undertaken. I'm happy to report to them that no, they are not forgotten. We talk about doctors in this Chamber. And I want to thank the lawyers in this Chamber for supporting this bill. Thank you."

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

"Very briefly, Mr. Speaker. In favor. I'm happy to see some caps on damages in this field. I think the fear of lawsuits on the part of doctors has led to very high costs and defensive medicine, in ordering excessive tests, and leaving long paper trails in case of a lawsuit. I don't understand one provision of the bill, that says the caps on the judgments will not apply if the claimant's economic damages are less than \$1.5 million. I don't know the effect of what percent of people have damages that are less than \$1.5 million. But, it would seem that many people would fit under this limit. So, I don't know whether this might negate the cap on non-economic damages. But, we shall study it further as this bill progresses, hopefully to final passage. Thank you."

Representative Karamatsu rose to speak in support of the measure, stating:

"In support. Mr. Speaker, in this bill, we tried to find a delicate balance to protect patients, and at the same time to retain doctors. So, at this time, I'd like to insert written comments into the Journal. Thank you."

Representative Karamatsu's written remarks are as follows:

"I rise in support of House Bill 1784, House Draft 2, Relating to Medical Torts. Mr. Speaker, there has been a disturbing trend over the years as more and more doctors either leave the islands or retire, leaving our residents with inadequate access to healthcare, if at all. Our Neighbor Island residents especially suffer the unfortunate consequences of our growing lack of physicians. There are several factors contributing to this mass exodus of doctors, including a high cost of living, low reimbursement rates, and high medical malpractice insurance premiums.

"House Bill 1784, House Draft 2 attempts to address one of the main reasons that doctors claim is forcing them to leave our State. This tort reform proposal originally offered a \$250,000 cap on noneconomic damages, with a \$3 million cap for gross negligence cases. However, after careful consideration of the concerns expressed by the medical community, legal community and patient advocates, the Judiciary Committee has amended this measure to better reflect a more balanced approach to addressing tort reform. More specifically we removed the specific award amount for noneconomic damages, included a provision to exclude the cap on noneconomic damages in cases where the economic damages are less than \$1.5 million, removed the sections on attorney fees, periodic payments, admissible evidence, and the \$3 million cap in cases of gross negligence, clarified the language in the adverse notification section, and established a medical malpractice taskforce and a medical malpractice rate and awards cap commission in order to best determine and regularly maintain the most reasonable, yet realistic medical malpractice insurance premiums and noneconomic damage caps possible.

"And while your Committee recognized the importance that the physician profile section brings in encouraging consumer awareness and protection, we felt that it was best not to jeopardize passage of this

measure because of a potential title problem that the profiling section posed, and therefore, with the prior consent of your Health Chair, chose to delete that section.

"The measure before us today is a well-thought out compromise that attempts to address the concerns of all affected parties based on factual research and best practices from other states, while keeping in mind the unique situation of our island state. This measure also strives to bring all the affected stakeholders together to develop realistic solutions to the impending medical crisis we are facing. Medical tort reform is a very complex and emotional issue that has gone unaddressed for years. It is time that we bring the affected stakeholders and experts together to have an open and candid discussion about the actual reasons that are forcing our doctors to leave and what we can do to keep them here. Without that discussion we will never truly find the solutions we need, which is why the establishment of this task force is so important.

"In short Mr. Speaker, your Judiciary Committee recognizes the sensitive divide on this issue, the need to bring the affected stakeholders together for an open and honest discussion, and that even though this is only one of many different components affecting our State's healthcare system, the critical need to move this measure forward for further discussion.

"This measure in its current draft provides us with the opportunity to continue the meaningful policy discussions regarding doctor recruitment and retention and therefore, I ask my colleagues to support this measure so that these discussions may continue on in the Senate. Thank you."

Representative C. Lee rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Belatti rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. I rise in opposition to this bill and would like to make a few comments. Thank you, Mr. Speaker. This is a bill that I've been very conflicted over, as both a person who has family members who are nurses, doctors, physician's assistants, and, as a lawyer. I've been conflicted because, I think out there in the community, the constituents are also divided.

"And, to reach my conclusion, I had to look back on what was the overarching purpose of the tort law system. Going back to torts 101, the overarching purpose of the tort law system is to encourage socially efficient behavior, by setting up legal structures that ..."

Representative Evans rose to a point of order, stating:

"The current speaker seems to be looking at the audience and not addressing the Speaker."

The Chair addressed Representative Belatti stating:

"Representative Belatti, would you please address the podium?"

Representative Belatti continued, stating:

"Yes, Mr. Speaker. So, the purpose of the tort law system, as I've learned, is to one, compensate victims for their injuries. Two, to deter potential wrongdoers from intentionally or negligently injuring others. And three, to promote fairness and corrective justice.

"As this Body knows, low reimbursement rates for doctors, the high cost of living, and high malpractice insurance premiums have contributed to the crisis that exists in Hawaii's healthcare system, with Hawaii's doctors leaving rural areas and high-risk specialties to the detriment of Hawaii's patients.

"Tort reform is just one piece of a larger plan to address this crisis. Originally, when House Bill 1784 made its way through the Health Committee, I supported it, because it included measures of transparency and accountability. Other pieces, which are a part of House Bill 1784, as it

passed through the Health Committee, included the requirements that, one, mandated liability and insurance premium rollbacks. Two, required patient notification by healthcare providers of adverse events, which would increase communication between doctors and patients. And three, provided transparent public information on doctors, so that the public at large would be able to make informed decisions when selecting their healthcare providers.

"As the bill progressed to the Judiciary Committee, however, important features were gutted. For example, this bill no longer requires the online publication of physician profiles. It also narrowed the definition of 'healthcare provider,' so that the notification requirement is essentially ineffective in alerting and protecting Hawaii's people from medical errors.

"For these reasons, I no longer support the reforms contained in this amended House Bill 1784. Recognizing that this bill will likely move out of this House, I hope that some of the concerns that I have raised and other colleagues have raised will be taken up by the Senate. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1784, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL TORTS," passed Third Reading by a vote of 37 ayes to 13 noes, with Representatives Belatti, Berg, Brower, Hanohano, Keith-Agaran, Luke, Morita, Nishimoto, Rhoads, Saiki, Shimabukuro, Takumi and Wakai voting no, and with Representative Takai being excused.

At 10:53 o'clock a.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 197, HD 1  
 H.B. No. 244, HD 1  
 H.B. No. 591, HD 1  
 H.B. No. 1663, HD 1  
 H.B. No. 1272, HD 1  
 H.B. No. 1593, HD 1  
 H.B. No. 1784, HD 2

Representatives Cabanilla and Ito, for the Committee on Housing and the Committee on Water, Land, & Ocean Resources presented a report (Stand. Com. Rep. No. 771) recommending that H.B. No. 1443, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1443, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Herkes rose to speak in opposition to the measure, stating:

"Mr. Speaker, in opposition. I'm guilty. I do carpentry in my garage. It's what we do in the rural areas. One of my neighbors is retired and to supplement his income, he makes ukuleles. I believe that's carpentry. It's just, that's what our garages are for."

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

"Thank you, Mr. Speaker. I rise with reservations. My only concern with this measure is the fact that it doesn't take into account previous contracts entered into, for example, declarations of covenants, conditions, and restrictions. And, I think that those are superseding documents and arguably, should we pass this measure without some language regarding that previously entered into agreements between homeowners and developers or associations are not recognized, we could be, arguably, interfering with contractual relations. So, I would just caution the Members on that. Thank you, Mr. Speaker."

Representative Ward rose to speak in support of the measure, stating:

"Mr. Speaker, in support. Mr. Speaker, this bill is really all about the future. The future of small business is going to be in the home, and if you're a carpenter, or if you're otherwise, this is a beginning document which we're going to have to amend continually, because if we go more telecommuting, more computer technology based businesses, this bill will be filled up to the brim. Right now it's just an opener. Thank you."

Representative Ching rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Finnegan rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker, I support this bill and have short comments. Thank you. This is a very good idea. During these tough economic times, we should be responsibly looking for ways to encourage entrepreneurship. The purpose of this bill is to allow owner-occupants of the home to operate a small business out of their home, as long as it does not have serious negative impacts on the surrounding residential area.

"This gives start-up businesses a way to keep costs low. The risk of starting a business is lessened. And this is also a good quality of life measure for those who are trying to juggle home, family and work. This is a good idea that deserves more discussion. Thank you."

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

"Mr. Speaker, I am voting for this measure, but just would like to express a reservation. I believe this is more a county function, and if they would like to pass this, I would encourage them to do so. Thank you."

Representative Cabanilla rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Cabanilla's written remarks are as follows:

"In this time of recession it is important to encourage as many revenue streams as possible. Also as a social worker I support giving Hawaii residents the opportunity to realize the 'American Dream' of owning and operating their own business. This will give self-determination and autonomy for many people. Instead of relying on an employer, their successes and failures are solely their own responsibility.

"It is expensive to rent office space. In this time of high rents and increased environmental awareness, it makes sense to utilize the home that has already been purchased or rented instead of leaving it to sit empty all day while the occupant is taking up precious office space.

"This bill will help many types of home businesses, from lei and handicraft makers to and other cottage industries to accountants, naturopaths and e-Bay sellers. Now, especially with the advent of the internet, many businesses can easily be operated unobtrusively at home. This diversifies our economy, a goal of many Hawaii policy-makers. Remember, Microsoft was started in a garage.

"HB 1443 will especially help mothers with young *keiki* or elderly *kapuna* be able to care for their *ohana* while bringing in income for their family. Opponents have said that they are concerned that if many home businesses were allowed to have to employees, not already living in the home, it could destroy the "social fabric" of neighborhoods. I hold a masters degree in psychology and am a professional social worker. I can tell you definitively that if many mothers stayed home to care for their children or parents and had a couple of friends over to help them with their business at the same time, it would actually greatly strengthen the "social fabric" of these neighborhoods.

"Opponents have also said that they were concerned about traffic impacts. Actually home businesses would have the exact opposite effect. More people would stay home, instead of contributing to rush hour traffic. And the employees would many times be neighbors that could walk or bike to work. Or they would be driving in the opposite direction to commuter traffic. And regarding parking, most neighborhood parking

problems are during the evening, when people are home, not during working hours.

"While opponents talk about county homerule, I am interested in even more fundamental homerule, that of the homeowner deciding how to live in their own home."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1443, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HOME OCCUPATIONS," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Herkes, Pine and Thielen voting no, and with Representative Takai being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 772) recommending that H.B. No. 951, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 951, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Thielen rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. I'm rising to speak against the bill. Thank you. Mr. Speaker, this would give landowners immunity, were there to be falling rocks or other things that would occur from their property. I'm particularly concerned about a parcel that is located right above Kalahaio High School's playing field. And, if the private landowner were to have immunity, and not do anything to make sure that that hillside stays stabilized, we could end up with a football player, or soccer player, or whoever, being injured. I don't think we want to do this, and I think that we ought to take a look throughout our districts, and those people who have hillsides that may be not so stable, should take a hard look at this bill. Thank you."

Representative Ward rose to speak in opposition to the measure, stating:

"Mr. Speaker, I rise in strong opposition. Mr. Speaker, boulders don't care who's liable when they fall on people or smash houses, and I speak from personal experience. In the flood of '88, a boulder probably as big as your desk, 10 feet tall, came through my neighbor's house. I only had three feet of mud and boulders, and small ones in my house.

"The problem with this bill is that it would give upslope landowners license to ignore these hazards. It also gives immunity for conditions that can be remedied. The point is, if liability is only linked to those where maintenance is done in negligent terms, why would a landowner do anything at all, Mr. Speaker? It sends the wrong signals, for what otherwise is a very dangerous situation in many of our constituencies.

"I have, just last week, in Ahukini Street, a boulder as big as that rug on the top of our House Chamber, fell off and broke down. And, there's people, as I speak, sleeping at night in terror, fearing that this is going to happen.

"Fortunately, there is liability, and fortunately, there are people who are looking at it; engineers who are measuring its movement, and it's dangerousness. But this bill kind of gives too much *carte blanche*.

"Mr. Speaker, The bottom line is this. If you own a swimming pool, you're always going to be liable if anybody drowns in it. If you're fortunate enough in Hawaii to own a mountain, if boulders fall down, you should be liable. Especially, we live in a volcanic-formed island. We have mountains all over the place. This bill is contrary to the geography in which we live in. Thank you."

Representative Evans rose to speak in support of the measure, stating:

"Mr. Speaker, I stand in support. The way I read the bill on page three, it says, 'the landowner shall not be liable for any damage, injury, or harm to persons or property outside the boundaries of the landowners land.'

"If I listen to the previous speakers, I really have concerns of all the people that can't control the land that's outside of their boundaries. And if I listen to the previous speakers, I would say that government must have a role in this. If we're going to hold this landowner responsible for a hillside that's above them, these people don't have the knowledge and experience to understand storm water runoff. They don't understand if in fact there was an earthquake, and somehow it got compromised. So, what, are we going to subsidize and pay for people to counsel and go and analyze?"

"You know the Representative from the Big Island would love to have experts look at the terrain, and what's going on with earthquakes and storms and flooding, and how it's impacted. But, we're not there yet.

"So, I think this bill actually, really addresses the fact that people that live on land can't control what's above them on hillsides, for example, or how streams may change course because of flooding. And, so I think the bill, the House Draft 1 was, I think really included some good consideration, provided, the bill says, 'that a landowner shall remain liable for damages proximately caused by negligence or wanton acts or omissions committed in the course of any activities on the improved land.' So, if the landowner, if there's storm water runoff and it's coming down and it's coming on their property, and somehow it's compromising their property, they have some responsibility, because they know it's a problem. So, I think this is covered in here, so I think this is a good bill. Thank you, Mr. Speaker."

Representative Luke rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. In opposition. You know, this bill actually goes a little further than giving immunity to landowners. What it does is, for instance, if you see a boulder, and it's on your land, if you don't do anything about it, then you have full immunity. But, if in trying to go ahead and protect your neighbor from your boulder coming down, and you try to stabilize it, then you're hooked for liability. So, it's actually backwards. So what it does is, it encourages, even during dangerous situations, if you see a dangerous situation, you ignore it, because you know you'll be immune. But if you try to go and see if you can stabilize it or try to correct it, then you're liable.

"It's just backwards thinking. Especially when, people who live on cliff sides, boulders are coming down. I don't know if it's because of changing climate, or changing soil concentration, but just in the last 10 years, it seems like boulders are coming down all over, whether it's in Nu'uauu, Liliha, or Hawaii Kai side, Manoa, Nanakuli side, it's coming down all over. We as policy makers, need to figure out what we can do to proactively encourage landowners to get rid of dangerous situations, instead of discouraging. And, this bill goes ahead and discourages that. Thank you."

Representative Finnegan rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. In opposition, and just short comments. Our legal review of the bill said exactly the same thing as the previous speaker. The liability for the owners of this unimproved land would only incur liability if they tried to maintain the land. The safer counsel may be to do nothing to avoid liability. So, only the landowners who try to do preventive maintenance can be held liable. This is definitely a disincentive to fix a potentially harmful situation. Thank you."

Representative Marumoto rose to speak in opposition to the measure, stating:

"In opposition, Mr. Speaker. Yes, I agree with the previous speaker, in that if a landowner does nothing, then the landowner is not liable. But, if there should be a boulder looming above a home, the landowner, in moving it and trying to ameliorate the situation, is liable. The unintended consequence of this bill is to encourage landowners to do nothing. If they do nothing, then they are not liable. Once they try to remove a rock, or ameliorate a landslide condition, then they are liable.

"So, I am opposed to this measure, because in my area, in Ainakoa, a young girl was killed by a boulder a few decades ago. But, just a few

years ago, a boulder came down and smashed into a car in Waialae Nui Valley. So, we are always living with the threat of boulders, and we don't want to give landowners complete immunity from removing hazards. The word 'stabilize' is in this bill. During the hearing, I asked a question, whether the stabilization meant removal of threatening rocks, and my understanding is that is what one meaning of that word is.

"So, I encourage all people to take a good look at this. Vote 'no' if you feel that you want to protect the people who are downhill from many of these landowners. Thank you. That includes the State and large estates. Thank you."

Representative Ching rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. Also in opposition. And, it's all been well said by previous speakers, so I will try not to go too long. But, in my valley that I share in Nu'uaniu, we have had our share of problems and danger, and knowledge is a great thing. The more people know about what's going on, the better. And when people are not knowledgeable, this is where problems exist. So in opposition, and I ask that the words of the speaker of Nu'uaniu/Pacific Heights be entered as my own."

Representative Ward rose to respond, stating:

"Mr. Speaker, I continue in opposition. Just for the record, so the reading of the bill is correct, and following where the Majority Floor Leader left off, she forgot to mention that it says, 'provided that a landowner shall remain liable for damages proximately caused by negligence or wanton acts or omissions committed in the course of any activities on the unimproved land,' which has been translated as, 'if you don't do anything, you're not liable. If you do something to try to prevent it, you're theirs.' So, it sends the signal, don't touch your land, jeopardize other people, because you're going to be okay, you're not going to be liable.

"So, it's very clear that this is bad policy for those of us, and all of us who live on mountainous, volcanic islands. Thank you."

Representative Har rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. In strong support. Mr. Speaker, I've been listening to all the previous speakers, and again, let's look at the language in the bill. It clearly states: 'provided that a landowner shall remain liable for damages proximately caused by negligence or wanton acts or omissions.' 'Proximately caused by negligence' means, Mr. Speaker, that if the landowner knew or recently should have known of this condition and did nothing, they will therefore be liable. So, all these concerns that are being raised are essentially moot, because the language in here clearly addresses, if a landowner knows, or should have known, reasonably known, that there was a dangerous condition that existed on their land, it doesn't say, 'look away and don't do anything about it.' It states you will still be held liable. For those reasons, Mr. Speaker, I am in support. Thank you."

Representative C. Lee rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Manahan rose in support of the measure and asked that the remarks of Representative Har be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Wooley rose in support of the measure with reservations and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Wooley's written remarks are as follows:

"I support the intent of this bill and the concept of indemnifying landowners for natural conditions that exist on their property. However, I have concerns that this bill may discourage landowners from taking action to make their property safe. I suggest the language of the bill be amended to indemnify landowners that make a good faith effort to make their property safer for themselves and their neighbors."

Representative Saiki rose to speak in opposition to the measure, stating:

"Mr. Speaker, I rise in opposition to this measure. This bill as introduced, has been introduced every year for several years now by landowners who want to be absolved of any responsibility for maintaining their open spaces. Every single member of this Body whose communities are adjacent to a mountain, a ravine, a slope, or a valley, should think very carefully about this legislation.

"Last year, when we heard a bill that was similar to this in the Water, Land Committee, where landowners testified that if legislation like this were to pass, then the onus would be on down slope residents to protect themselves from the potential for a rock fall.

"The solution that was provided by the landowners was that residents should, at their own cost, build walls or fences to protect themselves from boulders and other dangerous conditions that were upslope of their homes.

"We should think very carefully about enacting this legislation, because it will also reverse over 50 years of common law in Hawaii, that basically imposes upon landowners a duty of reasonable care to innocent bystanders.

"For these reasons, I oppose this measure. 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. 951, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LANDOWNER LIABILITY," passed Third Reading by a vote of 32 ayes to 18 noes, with Representatives Belatti, Berg, Ching, Finnegan, Hanohano, Keith-Agaran, Luke, Marumoto, McKelvey, Morita, Nishimoto, Pine, Saiki, Shimabukuro, Takumi, Thielen, Wakai and Ward voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 774) recommending that H.B. No. 560, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 560, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Pine rose to speak in opposition to the measure, stating:

"Yes, Mr. Speaker. I rise in opposition to 774. This was a tough one for me. First, I'd like to reveal a potential conflict. I work at a homeless veterans' shelter," and the Chair ruled, "no conflict."

Representative Pine continued in opposition, stating:

"Basically, what SCR 774 does is, it increases the tax per wine gallon to benefit veterans. The first sentence was okay, but when you combine it with benefitting veterans, it was not more of a logical feeling for me, but an emotional one. As I deal with homeless veterans every day, I understand their personal struggles. And, there is already a negative connotation put on them, that many of them are homeless because they're drunks and alcoholics and things like that. I just saw this addition of these two things as a bad message to send to the public. I would much rather prefer that we have a specific allocation to this special veterans' fund. For those reasons, I am in opposition."

Representative Finnegan rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. In opposition. Mr. Speaker, if you want to fund programs for veterans, then prioritize it. I'm sure that the intentions of the introducers weren't to say that there is a nexus between funding veterans' services and alcohol consumption. When I first read the bill, I was a little stunned that this mechanism for funding sends a bad message. I cannot support something that gives the impression that veterans are drunks."

"The funding mechanism for special funds are almost always created with a nexus. I think we should kill this bill and fund veterans respectfully and rightfully out of the general fund. Thank you."

Representative Ward rose to speak in opposition to the measure, stating:

"Mr. Speaker, as a veteran and not a drunkard, I would like to adopt the words of the previous speaker as my own," and the Chair "so ordered." (By reference only.)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 560, HD 2, entitled: "A BILL FOR AN ACT RELATING TO VETERANS SERVICES," passed Third Reading by a vote of 45 ayes to 5 noes, with Representatives Brower, Finnegan, Herkes, Marumoto and Pine voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 775) recommending that H.B. No. 610, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 610, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SCIENCE AND TECHNOLOGY," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 776) recommending that H.B. No. 658, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 658, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Carroll rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Carroll's written remarks are as follows:

"Thank you, Mr. Speaker. In strong support of SCR 776 HB 658 HD1.

"The purpose of this bill is to support military veterans by appropriating general fund revenues to support an additional full-time veterans' counselor position for the Maui Office of Veterans' Services. At this time, the current Maui Office of Veterans' Services is short handed and lacks the ability to reach all veterans on the island of Maui. This also includes the islands Lana'i and Moloka'i.

"We must never fall short of what is due to our veterans and it is our duty to make sure that they receive adequate and essential services.

"Again, I strongly support this measure and ask my colleagues to support our veterans by supporting this measure. 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. 658, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE MAUI OFFICE OF VETERANS' SERVICES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 777) recommending that H.B. No. 988, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 988, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 779) recommending that H.B. No. 1405, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1405, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Choy rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Choy's written remarks are as follows:

"Other states in the last few years have requested guidance on how nexus is established in their states for purchases from the Internet or mail order companies' products sold to their residents. To help solve this problem, states have started clarifying this situation by legislating nexus laws. This bill is similar to legislation being heard in three other states.

"This bill establishes economic nexus by following the decision made by the State Courts of New York. Nexus is established if there is an agreement between an out-of-state seller with a resident in this state which the resident receives a commission directly or indirectly from the out-of-state seller. If this relationship occurs, the seller has established a nexus for all sales made by the seller to the state.

"This bill also will help level the playing field for local 'brick and mortar' establishments."

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

"Thank you, Mr. Speaker. On SCR 779, House Bill 1405, House Draft 2. Thank you, Mr. Speaker. With reservations. The purpose of this bill is to ease the fiscal crisis currently facing the State, and maximize the State's ability to capture taxes owed by out-of-state businesses by specifying the business activities that would constitute a sufficient connection with Hawaii, to allow the State to impose the general excise tax on those activities. This is akin to the Streamline Sales Tax, and I have concerns on the overall effects on taxes on our residents, Mr. Speaker.

"Also, though, an unintended effect of this bill is that online sellers are likely to eliminate their compensation programs for persons who are residents of this State. So, for those reasons, I stand with reservations."

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

"Mr. Speaker, thank you. I also rise to vote with reservations on this bill. As noted by the previous speaker, this bill attempts to collect general excise tax on out-of-state purchases made by the Internet, by mandating the general excise tax if the sales are due to referrals by a Hawaii resident.

"A similar bill is moving through the Senate that adopts a different approach. It adopts voluntary collections. Which approach is better, is unclear to me at this time, but I hope that more light is shed on this bill. Thank you, Mr. Speaker."

Representative Ward rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

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

"Mr. Speaker, in strong support. Just a couple of points. The Department of Taxation estimates that the revenue gained for this measure is about \$4 million per year. But more importantly according to Director Kawafuchi, this legislation allows for clarification of the current law in place today. And, it will do so without raising any additional taxes. What this does, Mr. Speaker, is level the playing field between the bricks and mortar businesses here, in retail, with those that are doing business on the Internet. Thank you, Mr. Speaker."

Representative Ching rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative McKelvey rose in support of the measure and asked that the remarks of Representative M. Oshiro be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

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

"With reservations. And just want to clarify that this does not tax Hawaii residents."

Representative Berg rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Cabanilla rose to speak in support of the measure, stating:

"I stand in support, Mr. Speaker. Other states do it, why can't we do it? Thank you."

Representative Marumoto rose to speak in opposition to the measure, stating:

"In opposition, Mr. Speaker. I believe it is a tax on the residents when they purchase something online. 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. 1405, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAX," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Brower, Hanohano and Marumoto voting no, and with Representative Takai being excused.

At 11:18 o'clock a.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1443, HD 2  
H.B. No. 951, HD 1  
H.B. No. 560, HD 2  
H.B. No. 610, HD 2  
H.B. No. 658, HD 1  
H.B. No. 988, HD 2  
H.B. No. 1405, HD 2

At 11:18 o'clock a.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:19 o'clock a.m., with Vice Speaker Magaoy presiding.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 782) recommending that H.B. No. 333, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 333, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. With reservations. Thank you. This creates a State Earned Income Tax Credit funded initially with TANF funds, Mr. Speaker. My reservation on this bill is that the EITC on the federal level is highly abused, and this bill could also cause some administrative and legal issues for our Department of Taxation. Thank you."

Representative Belatti rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Belatti's written remarks are as follows:

"Mr. Speaker, I rise in support of HB 333, HD 2. Opponents to State earned income tax credits often warn policymakers about taxpayer abuse or high rate of overpayments associated with federal and State EITC programs. This criticism, however, tends to exaggerate the issue of abuse insofar as critics often rely on an Internal Revenue Service report published ten years ago as evidence of overpayment. That report, however, was compiled using a methodology that has since been criticized and discredited by the United States Department of Treasury Inspector General in a 2001 December report entitled, "There Are Significant Weaknesses in the Internal Revenue Service's Efforts to Measure Earned Income Credit Compliance." Within the past ten years, tax laws have changed, and the IRS has implemented an improvement plan to catch and prevent EITC overpayments due to error and fraud. Because concerns over EITC fraud are overstated and based on outdated and faulty data and because the EITC is a proven tool for incentivizing work and supporting working families, I support HB 333, HD2."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 333, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 784) recommending that H.B. No. 704, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 704, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Finnegan rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. In opposition. Thank you, Mr. Speaker. This is a bill to license homecare agencies. The Department of Health is already struggling with the cuts that are going to be, and have been made on that particular department. And, at this point in time, I think we should be really cautious about how we move forward in spending more money, especially because of balancing the budget.

"This bill also states, and I understand that this is, I guess a booming industry, from what I've read. But, it also states that there is a repeal for the license in the bill. So, I'm not actually understanding. Did they want to just try out licensing them? Is it important enough to license them? If so, then why would you consider already putting a repeal on a licensing requirement. So, I'm voting 'no.'"

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

"Standing in strong support of Stand. Com. No. 784. In recent years, there has been a proliferation of homecare agencies, and homecare agencies are really important these days because we want to encourage people to be taken care of in the home. But, we want to make sure that the care is safe care. So, this bill is an extremely important bill, and it's part of the package that is supported by the Joint Legislative Committee on Aging in Place, and actually brought to our Committee by people in the community who saw a need for licensure.

"So, I hope that we can pass this bill on, and that even though it may cost a little money, I think in the long run it will save money, because our hospitals, our long-term care facilities are becoming more and more expensive, and we need to encourage people to be cared for at home. Thank you."

Representative Finnegan rose to respond, stating:

"Thank you. In just short rebuttal. In regards to saving money, Mr. Speaker, I don't think that it saves money. People are doing this currently without being licensed, so those options for going into being cared for at the home level is already occurring. And that's my point, Mr. Speaker. We go in with spending more money in an area when we just, at this point

in time, we're struggling for every nickel and dime, from what I understand. This is probably unprecedented in the amount of money that we have to make up for the budget balancing. Thank you."

Representative M. Lee rose to respond, stating:

"Just in rebuttal, Mr. Speaker. Thank you. It isn't true that people are always being cared for safely, at home. There are documented incidents of where people are not being cared for safely at home, and that's precisely the reason for this bill."

Representative Finnegan rose to respond, stating:

"Thank you. I know it's my third time, but I just wanted to make sure it was clear that I did not say that people are always being taken care of in the home, safely. That was not my statement. My statement was that people are being cared for at home. That, this is additional money, and I don't see how it's saving money. Thank you."

Representative Yamane rose to speak in support of the measure, stating:

"Mr. Speaker, I'm standing in support. I didn't want to get between the two, the rebuttals. They can go in the middle. Thank you, Mr. Speaker. I would like the words of my colleague from Mililani, her first statement entered as my own.

"I did want to make a couple comments. I understand the concern about the fiscal impacts, and I would just like to share with my colleagues that, that is a concern as this bill moves forward.

"Also, Mr. Speaker, the intent of the bill, again, is to look at this as a viable option in the future, as it moves forward. There are cost impacts right now, but if we do not find ways to support the proper care, and the most expedient care in the home setting, then it will have a negative cost impact to the whole system.

"Mr. Speaker, I just want to comment in regards to the question regarding the potential repeal date of June 30, 2014. The reason why the Health Committee left that in, is because, as it goes forward, there should be a reevaluation to make sure that if this is the right direction to go, that we have an opportunity in this Body, to relook at that. And, if there needs to be changes, or a repeal, or even an extension or elimination of the sunset, then, we, as a Body can set that forth at that time. 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. 704, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HOME CARE AGENCIES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 787) recommending that H.B. No. 1284, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1284, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Ching rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support of H.B. 1284 - Relating to Health. The current healthcare system does not provide parity to those physicians who provide services to our needy. The Occupational Therapy Association of Hawaii states in their testimony that, 'Currently, many private clinics do not accept Medicaid because of the low reimbursement. These consumers are then referred to another clinic, and must wait for approval for medical care. Access to care is compromised, which may escalate the intensity of care needed and preventable use of the emergency room, which is costly. Reimbursement to providers at 100% of Medicare may encourage more providers to accept Medicaid clients.' This bill will

help encourage specialist to accept patients who may not otherwise be able to find a physician to treat them. 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. 1284, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 789) recommending that H.B. No. 1364, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1364, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Finnegan rose and asked that the Clerk record a no vote for her, and the Chair "so ordered."

Representative Choy rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Choy's written remarks are as follows:

"The purpose of this bill is to enhance the openness and transparency of our government.

"People come to the Legislature to request funding for their many deserving causes. Their requests go through a grueling process and if they pass, their requests are sent to the Executive Branch for execution.

"It is at this place in the process that transparency becomes clouded. People have very little information on their appropriations. They constantly have to wonder if their appropriations will be released.

"Disclosure is the key for financial accountability. When information is displayed and reasons given for decisions made by the Executive Branch, confidence in government is enhanced. This bill does not diminish the powers of allotment by the Executive Branch. It merely asks for disclosure. There are no consequences attributed to not do this request, but passing this measure will go far in showing that openness in government is alive in this State.

"Finally, this bill can be accomplished by merely requesting that the Director of Budget and Finance to post on their website the status of items such as CIP, GIA, or other appropriations on a spreadsheet."

Representative Nakashima rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Nakashima's written remarks are as follows:

"Mr. Speaker, this bill will require the Governor or Director of Finance to submit a report to the Legislature for each restriction of an appropriation authorized by the Legislature. I believe that it is sound fiscal policy for the Legislature to receive a report from the Executive Branch with regard to any restrictions that have been placed by the executive on the actions of the Legislature. Such variance reports are common and are good business practices.

"This is a fundamental check in the checks and balances of government, and I strongly support this measure."

Representative Ward rose to speak in opposition to the measure, stating:

"In opposition, Mr. Speaker. This bill singles out the Governor to report to us when, and if, and ever, there's a withholding and not a release of funds. It breaks with 50 years of traditions, with the Gubernatorial-Legislative relationship. It is something that is not needed, particularly at this time.

"The Governor balances the budget every month, *vis-a-vis* the Department of Budget and Finance. Cash in, cash out. How much can we spend? How much do we have to hold back?"

"I think this bill is based upon a wrong assumption, a misinterpretation, of the very nuanced financial fiscal role that the Governor now plays. This is not the best way to do policy by punitive, and mistrust. We have the purse strings to allocate it, but they are the ones who give it out. I think this just is a bad bill. Thank you."

Representative Choy rose to respond, stating:

"Mr. Speaker, HD1 takes out the punitive aspects of the bill. This bill is for openness and transparency, and that's always good in good government."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1364, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE BUDGET," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Finnegan, Thielen and Ward voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 790) recommending that H.B. No. 28, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 28, HD 1, pass Third Reading, seconded by Representative Evans.

Representative M. Oshiro rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative M. Oshiro's written remarks are as follows:

"Mr. Speaker, I am in support of HB28 HD1 Relating to Dead Human Bodies.

"This measure would prevent commercial exploitation of human body remains by prohibiting the sale of dead human bodies, including human bodies or remains that have been plastinated through the use of polymers; unless it is for the purpose of medical education or research by a university, hospital or qualified institution.

"This measure will also raise the monetary penalty for the misuse of a dead human body from \$1,000 to \$5,000, or imprisonment of up to one year or both.

"Medical and educational research is beneficial to the understanding of the human body for medical treatment. However the educational or health related values do not outweigh the moral and ethical concerns regarding the possible exploitation of unconsenting human beings. The selling and buying of dead human bodies or remains reduces the human body to an article of trade and opens the door to unscrupulous individuals attempting to profit financially from those less fortunate.

"For these reasons, I support this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 28, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DEAD HUMAN BODIES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 791) recommending that H.B. No. 29, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 29, HD 1, pass Third Reading, seconded by Representative Evans.

Representative M. Oshiro rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative M. Oshiro's written remarks are as follows:

"Mr. Speaker, I am in support of HB 29 HD1 – Relating to Dead Human Bodies.

"This measure would ensure the ethical treatment of human body remains, including human bodies or remains that have been plastinated through the use of polymers by requiring a permit issued by the Department of Health prior to commercially displaying dead human bodies.

"The measure will also require the Department of Health to adopt rules to require an exhibit promoter to provide valid written authorization to publicly display a dead human body for consideration has been obtained from any of the following individuals: the decedent, including but not limited to, authorization given by will; or a person authorized to make an anatomical gift under the Revised Uniform Anatomical Gift Act. If the dead human body is a minor, the valid written authorization will be from the parent or legal guardian.

"The fee will be determined by the Department of Health and be no more than what is reasonably necessary to fund the administration of the permitting process. It also establishes the Human Remains Exhibit Permit Fund into which shall be deposited the fees collected.

"Various exhibitions of plasticized cadavers arranged to demonstrate the workings of the human body have been travelling across the country. Exhibits have been set up in Atlantic City, Fort Lauderdale, Cincinnati, Las Vegas, and New York and internationally in Budapest, Hungary; Vienna, Austria; Santiago, Chile; and Madrid, Spain.

"The State of Hawaii is no exception. An exhibit displaying dead human bodies put on by Premier Exhibition Inc. opened on June 14, 2008 at Ala Moana Center and ran through January 18, 2009. There is no doubt that the exhibit is a dramatic and educational display. However, the exhibitors admit that they could not verify where the bodies came from, and this means that the human beings, while they lived, most likely did not give their consent for their bodies to be used in this way after they died. Interestingly, soon after the opening of the exhibit we learned that Bank of Hawaii had sold all of its shares of Premier Exhibition Inc. In doing so, Bank of Hawaii joins twenty-one other financial institutions that have also divested all of its shares of Premier Exhibition, Inc. Although there could be a myriad of reasons for Bank of Hawaii's decision to divest holding, it demonstrates that the long term investments in Premier Exhibition Inc. is not in the best interest of Bank of Hawaii and its shareholders.

"The issue of selling, donating, or gifting one's body for a commercial purpose is important, but not germane to the central concern regarding consent or lack thereof. In this instance, it is questionable that these people gave consent and if so, whether the people understood that they would be plasticized and propped up and exhibited in this manner. Anatomical or whole body donations are negatively impacted when the public perception of unethical procurement and display occur. These exhibits do not come from a philanthropic educational institution; while exhibit promoters may claim to put these displays for educational benefit of society, the true bottom line here is profits. According to the advertisements for such exhibitions, millions of people across the world have been to such exhibits. According to Sarah Redpath, Director, "No Bodies 4 Profit", there are currently three major body exhibition companies, each with about a dozen shows each containing about 25+ whole human bodies, galleries of fetuses, and uncountable organs. Combined, there are potentially thousands of whole and partial human remains circulating the US unchecked." If anyone would like more information on the organization's mission, they can go to [www.nobodies4profit.org](http://www.nobodies4profit.org).

"Plastination, is a process wherein human tissue is preserved by the removal of liquids and fats and then injecting it with plastic polymer. Exhibitor's claim that it is safe and without public health risks, however there is evidence that if the plastination process is not cured properly, the bodies exhibited may leak liquefied fat. This poses potential health risks, which can be complicated further by the lack of donor consent and

knowledge of body origin. California Assemblywoman Fiona Ma observed at a human remains exhibit in San Francisco, "The bodies on display were porous, leaked bodily fluids and immediately raised health concerns." Testimony provided by Dr. Scott Lozanoff, Chair of Anatomy Department of the University of Hawaii John A. Burns School of Medicine states " these remains could harbor disease that would be almost impossible to track...The 'bodies Exhibit' recently shown at Ala Moana is an example [of] a commercial display that poses potential risk in terms of the origin of material, transportation, and handling. Commercial distribution of unclaimed human bodies and parts presents a significantly greater risk if used in commercially related activities involving anatomical dissection."

"These exhibits of plasticized cadavers have generated controversy over human rights violations. Questions of who are these people and where do they come from remain unanswered. New York Attorney General Andrew Cuomo concluded his investigation of one such exhibitor, finding "The grim reality is that Premier Exhibitions has profited from displaying the remains of individuals who may have been tortured and executed in China. Despite repeated denials, we now know that Premier itself cannot demonstrate the circumstances that led to the death of the individuals. Nor is Premier able to establish that these people consented to their remains being used in this manner. Respect for the dead and respect for the public requires that Premier do more than simply assure us that there is no reason for concern. This settlement is a start." A press release of the report may be obtained from [http://www.oag.state.ny.us/media\\_center/2008/may/may29a\\_08.html](http://www.oag.state.ny.us/media_center/2008/may/may29a_08.html). I wrote a letter to Attorney General, Mark J. Bennett seeking his interpretation and possible injunction. A written response from Attorney General Bennett states, "In regard to possible criminal violations, section 711-1108, Hawaii Revised Statutes, prohibits abuse of a corpse, which is defined as when 'a person treats a human corpse in a way that the persons knows would outrage ordinary family sensibilities.' It is not unreasonable to believe that the exhibitor knew that this type of exhibit may offend certain people, both because of the possibility that the people were political prisoners or victims of torture in life, and due to the graphic nature of the display. The facts presently known, however, do not appear to rise to the level of criminal abuse of a corpse." The Attorney General further states "It is my understanding that DOH has no concerns about the exhibit that would fall under its purview, and will not be pursuing the matter further."

"By requiring a permit, the measure seeks to eliminate the potential for unscrupulous individuals to benefit from the commercialization of displays of dead human bodies without prior consent from the decent.

"This measure seeks to balance the right to display human bodies or remains for educational and health purposes while ensuring that the bodies have been procured in a legal and ethical manner and pose no public health risk.

"Mr. Speaker, I would also like to thank the following persons and organizations for their assistance and support for this measure: California Assemblywoman Fiona Ma and her staff, Pennsylvania Representative Mike Fleck and his staff, Sarah Redpath Director of No Bodies 4 Profit, Dr. Scott Lozanoff Chair of Anatomy Department of the University of Hawaii John A. Burns School of Medicine, Dr. Marita Nelson Professor Emeritus University of Hawaii Department of Pathology, Dr. Angel Yanagihara University of Hawaii Pacific Biosciences Research Center, Mr. Harry Wu Executive Director of the Laogai Research Foundation, Mr. John White, Mr. Richard Hennessey, and Dr. Hong Jiang members of Falun Dafa and Mr. Glennon Gingko a concerned citizen. Special recognition is also given to my session Legislative Aide, Ms. Carmen Rodrigues. Her diligence and passion for this issue has enabled this measure to come this far and if approved, forever memorializes her exemplary work.

"For the reasons set forth above, I support this measure."

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

"Thank you, Mr. Speaker. With reservations on this particular bill, HB 29, HD 1. Thank you. My reservations continue to be the same from when I sat in the Health Committee, and that is the additional responsibilities of the Department of Health, in creating a new, I guess, a new responsibility, and going through the motions of doing a new responsibility, when these types of exhibits don't happen very often. On top of that, maybe not the Department of Health, and maybe the Department of Commerce and Consumer Protection should be the more appropriate place to do it, because it's more a business matter than a health matter. And so, I speak with reservations. 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. 29, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DEAD HUMAN BODIES," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Marumoto voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 792) recommending that H.B. No. 343, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 343, HD 1, entitled: "A BILL FOR AN ACT RELATING TO RURAL PRIMARY HEALTH CARE TRAINING," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

At 11:30 o'clock a.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 333, HD 2  
H.B. No. 704, HD 1  
H.B. No. 1284, HD 1  
H.B. No. 1364, HD 1  
H.B. No. 28, HD 1  
H.B. No. 29, HD 1  
H.B. No. 343, HD 1

At this time, Representative Marumoto rose, stating:

"Mr. Speaker, may I make a correction to that last vote, if I may?"

At 11:30 o'clock a.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:31 o'clock p.m.

#### LATE INTRODUCTION

The following late introduction was made to the members of the House:

Representative Mizuno introduced students from Okinawa participating in the student exchange program between Hawaii and Okinawa, Japan. There were accompanied by their chaperones:

Ms. Tomomi Chinen, Naha High School;  
Mr. Atsushi Teruya, Shuri-Higashi High School;  
Mr. Yoshikazu Matsubara, Okinawa Prefectural Board of Education;  
Mr. Kenichi Iwai, Deputy Superintendent, Okinawa Prefectural Board of Education;  
Ms. Susan Sato, Department of Education; and  
Former State Representative Dennis Arakaki.

#### UNFINISHED BUSINESS

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 793) recommending that H.B. No. 811, HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 811, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Marumoto rose to speak in opposition to the measure, stating:

"Mr. Speaker, I rise to speak against this measure. This bill removes the requirement that foreign nursing school graduates have their credentials evaluated by the National Commission on Graduates of Foreign Nursing Schools. The intent of this bill is to ease the nursing shortage, by relaxing some of the requirements for international school graduates.

"I understand the need to find ways to answer the shortage, but we cannot do it at the expense of the quality of our nurses. We need to have high standards, because there is a potential for harm. CGFNS, that's the graduates of nursing, have a track record of protecting the public, by ensuring that nurses and other healthcare professionals, educated in foreign nations, are eligible and qualified to meet licensure, immigration, and other practice requirements in the U.S.

"CGFNS checks each international nurse's history for prior convictions, and all foreign licenses must be validated as authentic and unencumbered in every nation that the nurse has been licensed in. If a nurse's credentials are adequate, then he or she should not have a problem. It is a good system that has ensured the qualification of nurses, here in Hawaii.

"Under this measure, CGFNS would be replaced with a burdensome and expensive State review process. One of the reasons the Board of Nursing testified against this bill is because of this burden. The Board stated that New Mexico and Alaska recently relinquished their state reviews, in favor of keeping the CGFNS process, because the number of reviews they had were in the thousands, and they could not keep up. This could be a worse problem in Hawaii, because our great State attracts so many foreign nurses, from a variety of countries.

"Moreover, this would cost the State resources at a time when we cannot afford to do it. Supporters for this bill have used California as a model for how a state review could operate. Yet, in California, it has found that the cost of retaining reviewers went to approximately a million dollars a year, and they were still unable to review Ukrainian, Eastern European, African, and some South American nurses' credentials, because they did not have the money to hire more reviewers with expertise in these countries' nursing programs.

"Finally, It has been stated that a reason we can do away with the CGFNS, is because the National Council Licensure Examination for Registered Nursing is an assurance that nurses are qualified. If that was the case, why do we have to worry about credentials? Let's just open up the NCLEX exam to anyone, regardless if they've got a nursing degree or not. I don't feel comfortable with that. I think we can all agree that our nurses need the proper education and training, beyond just taking a test to assure that they are qualified to take care of their patients. Thank you, very much."

Representative Ching rose in opposition to the measure and asked that the remarks of Representative Marumoto be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative Cabanilla rose to speak in support of the measure, stating:

"I rise in support of this measure, Mr. Speaker. Well, I think these arguments are moot for two reasons. The agency that licenses nurses is the National Council on Licensure Examinations, which every registered nurse has to take to be able to pass. That's the national standard.

"As far as the Commission on Foreign Graduates, there are two states that have done away with that. And, what's happening is that every nurse, a foreign graduate nurse, of which I am not one, can go to those states and take this examination. In those states, you can go everywhere, in any state to do that. You can come here, in Honolulu and take a California exam. Or, you can go to California and take a Hawaii exam. And, there is a

reciprocity law for this State, meaning any nurse that's licensed in the other 49 states, can apply for reciprocity.

"Those states that open up the doors for foreign graduates, without the CGNFS are now enjoining that, in the sense that they're now having application fees and examination fees, in which we're losing out, by maintaining this CGNFS. They just take the exam there, pass there, and apply for reciprocity.

"I think that we should do away with it, because of our market share, and application fees, and examination fees, because there's no way that we can stop a foreign nurse from coming and practicing in our State. Thank you, Mr. Speaker."

Representative Aquino rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. I stand in strong support of this measure. The intent of this bill is to streamline the licensing requirements for international nursing graduates, to meet Hawaii's, and our nation's shortage of qualified and certified nurses. Some states, including California, do not have CGFNS certification requirements. The removal of this certification requirement would allow Hawaii to meet the growing pressures and demands of needed healthcare delivery.

"The bill offers alternatives to this certification requirement, by requiring a breakdown of educational programs from the applicant's nursing school, as well as an official school transcript.

"This proposed process will help all internationally educated nursing license applicants the opportunity to prove their competency in the NCLEX. This bill does not lower nursing practice standards. In the proposed process, the Board of Nursing is still required to adopt rules to make sure that State patient care will not be compromised, and nursing standards are where they should be.

"All this bill does is provide equal opportunities for both domestic and international nursing applicants. Thank you."

Representative Yamane rose in support of the measure and asked that the remarks of Representative Aquino be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Keith-Agaran rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I rise to speak in support of HB 811, HD 2 which removes an unnecessary barrier to entry for qualified foreign nursing school graduates applying for licensure by examination for registered nurses in Hawaii.

"This bill allows Hawaii residents who are nurse graduates of foreign nursing schools to apply for a Hawaii license without incurring the added financial burden of obtaining certification from another agency, the Commission on Graduates of Foreign Nursing School.

"This bill does not decrease Hawaii's standards in anyway. Instead, it facilitates applications for licensure by Hawaii residents who are foreign graduate nurses. Streamlining the certification process, while at the same time safeguarding our high nursing standards, is accomplished under this bill. The certification process created by this measure not only retains accountability of credentials and professional nursing skills, but also fast tracks qualified nurses into Hawaii's health care work force.

"I support and vote in favor of the bill."

Representative M. Lee rose in support of the measure with reservations and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative M. Lee's written remarks are as follows:

"Mr. Speaker, I rise with concerns on HB 881, Relating to Registered Nurses. As a registered nurse, I know for a fact that nursing is regulated because it is a profession that poses risk of harm to the public if practiced by someone who is unprepared and incompetent.

"To be a licensed registered nurse, one must meet certain education requirements and pass an examination requirement. For unlicensed foreign nursing school graduates applying for a registered nurse license in Hawai'i, this bill will remove the requirement to have educational credentials evaluated by a professional evaluator.

"Forty-five state boards and the National Council of State Boards of Nursing firmly believe that domestic and international nurses must be held to the same standards of nursing education, training and testing. The days of having separate State nursing requirements are gone. In a few years, licensing will move towards global mobility that would allow health practitioners to provide aid to countries in need, be they the Philippines, England, the U.S. or any others.

"The Commission on Graduates of Foreign Nursing Schools International is an immigration-neutral, nonprofit organization that is an internationally recognized authority on RN credentials evaluation. According to the State Board of Nursing, soon there will be forty-six states that will require the CGFNS review. The remaining four will be the gateway where thousands of international nurses whose credentials are not reviewed by the CGFNS will go through. New Mexico and Alaska recently relinquished their individual state reviews because they simply could not keep up. California does 1,000 reviews a month. If California decides to abandon its reviews, those numbers will go to the remaining handful of states, of which Hawai'i will become one. This measure would create something we could not implement.

"In conclusion, Mr. Speaker, preserving uniform licensing requirements for education and examination ensures consumer safety and nurse mobility in times of crisis and emergencies. Uniform requirements lessen confusion for patients, nurses, other health team members and third party payers, as well as legislators and policy makers. Implementing the California model will be extremely costly. It would be better to consider a resolution to the Commission on Foreign Nursing Schools encourage a more timely response to applicants who are experiencing challenges with the current system."

Representative McKelvey rose in support of the measure and asked that the remarks of Representative Aquino be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Manahan rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Manahan's written remarks are as follows:

"The legislature finds that a foreign nursing school graduate may obtain a license to practice as a registered nurse in Hawaii either by examination or by endorsement. A foreign nursing school graduate may obtain a license by endorsement if the applicant already possesses an unencumbered license as a registered nurse in another country and, in the opinion of the Board of Nursing, meets the qualifications required of registered nurses in Hawaii at the time of graduation. If a foreign nursing school graduate does not already possess a registered nurse license in another country, the applicant may obtain a Hawaii license by examination by passing the National Council Licensure Examination and by complying with applicable requirements of state law and board of nursing rules that regulate nursing.

"Section 16-89-8(c), Hawaii Administrative Rules, requires that a school transcript of a foreign nursing school graduate applying for a license by examination be evaluated by a professional educational credential evaluator recognized by the Board and the applicant must arrange to have the evaluator send a report directly to the Board. The Commission on Graduates of Foreign Nursing Schools fulfills this credential evaluation function by either issuing a certification through its international

certification program at a cost of \$418, or by issuing a full education course-by-course report at a cost of \$378.

"The international certification program is composed of three parts:

- (1) A credentials review;
- (2) The international qualifying examination; and
- (3) An English proficiency examination.

"The legislature further finds that not all states require foreign nursing school graduates to undergo these additional procedures to be licensed to practice as registered nurses. For example, California only requires a foreign nursing school graduate to send a document known as the "Breakdown of Educational Program for International Nursing Programs" form to the applicant's school with a request for transcript. Hawaii's rules already require a foreign nursing school graduate to provide a student final record or official transcript sent directly from the applicant's school to the Board of Nursing.

"The purpose of this Act is to require the Board of Nursing to adopt rules to remove the requirement for a foreign nursing school graduate to furnish either a written certification or a full education course-by-course report as a condition to take the licensing examination to obtain a license to practice as a registered nurse in Hawaii."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 811, HD 2, entitled: "A BILL FOR AN ACT RELATING TO REGISTERED NURSES," passed Third Reading by a vote of 46 ayes to 4 noes, with Representatives Ching, Hanohano, Marumoto and Thielen voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 795) recommending that H.B. No. 1372, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1372, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. On Stand. Com. No. 795, I just wanted to note my reservations. I know that this particular issue, having to do with the Hawaii Health Systems Corporation is just complicated, and there are other moving bills. So for my own sake and to keep track, I wanted to make sure that I vote with reservations on it."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1372, entitled: "A BILL FOR AN ACT RELATING TO THE TRANSITIONING OF THE REGIONS AND FACILITIES OF HAWAII HEALTH SYSTEMS CORPORATION," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 796) recommending that H.B. No. 124, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 124, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH PROFESSIONAL EDUCATION," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 799) recommending that H.B. No. 347, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 347, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE

UNIVERSITY OF HAWAII," passed Third Reading by a vote of 43 ayes to 7 noes, with Representatives Belatti, Berg, Coffman, Hanohano, Herkes, Luke and Saiki voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 801) recommending that H.B. No. 1044, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1044, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Cabanilla rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Cabanilla's written remarks are as follows:

"The intent of affordable housing is to house people that can't afford market rates, and to keep State affordable housing resources recycling. What is happening now is that when properties are foreclosed, the State interest is being overlooked. It is imperative that taxpayers' contributions to affordable housing are protected and cycled back into providing more affordable housing."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1044, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 803) recommending that H.B. No. 1221, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1221, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Cabanilla rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Cabanilla's written remarks are as follows:

"This measure appropriates \$50 million in general obligation bond funds to match federal funds from the stimulus package for affordable housing projects. Especially in times of economic hardship, affordable housing is a priority. Housed residents are less likely to need other social services and can remain contributing members of society."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1221, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AFFORDABLE HOUSING PROJECTS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 804) recommending that H.B. No. 1232, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1232, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. Could you note my reservations on this particular measure, Relating to Sustainable Affordable Housing, House Bill 1232, House Draft 1? And, just quick comments.

"The affordability and perpetuity are, I believe, too restrictive, and it doesn't allow for recapture of shared appreciation. Thank you."

Representative Pine rose in support of the measure with reservations and asked that the remarks of Representative Finnegan be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative Shimabukuro rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Shimabukuro's written remarks are as follows:

"I am in strong support of HB 1232. I cannot support the sale of public housing. The vast majority of public lands held by the State are ceded lands. The claims of the Hawaiian people for reparations from the U.S. following the illegal overthrow of their kingdom are still unresolved. This is why our State Supreme Court banned the sale of ceded land; and this is why many are calling on this Legislature to enact a moratorium on the sale of ceded land. With a complete inventory of ceded lands still incomplete, we should not allow publicly held land to be sold, period.

"Furthermore, public housing is part of the public trust, and the State has a fiduciary duty to use public trust lands for the betterment of Native Hawaiians. We all know that land is extremely scarce in Hawaii; why else would forced lease-to-fee conversion be so controversial? Many landowners feel that no amount of money can compensate for the loss of this precious commodity.

"The State should take the same tactic; no matter how good a deal may seem today, the money earned will be spent swiftly at the discretion of HPHA. On the other hand, land that remains in the State's trust will continue to be passed to the next generation, and so on, leaving a priceless legacy that is guaranteed to increase in value over time.

"Finally, I should remind this body that HB 1232 is very similar to a bill we passed last year that the Governor vetoed it because she wanted the definitions of "affordable" tightened. Thus, the Governor supports this concept, but simply wants the measure refined.

"I urge my colleagues to support this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1232, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SUSTAINABLE AFFORDABLE HOUSING," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

At 11:46 o'clock a.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 811, HD 2  
H.B. No. 1372  
H.B. No. 124, HD 1  
H.B. No. 347, HD 2  
H.B. No. 1044, HD 2  
H.B. No. 1221, HD 1  
H.B. No. 1232, HD 1

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 805) recommending that H.B. No. 1694, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1694, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Thielen rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. Mr. Speaker, I'm voting 'no' on this, because the amended bill deletes the homeless preference."

Representative Finnegan rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Cabanilla rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Cabanilla's written remarks are as follows:

"Mr. Speaker, I am in favor of HB1694. This bill requires the Hawaii Public Housing Authority to establish a minimum monthly rent for State public housing units and an annual Consumer Price Index adjustment of minimum rent. We need to support and require public housing residents to be part of supporting their own housing needs. This will instill a sense of pride and will help public housing become sustainable.

"During FY 2008, HPA asked the Legislature for \$27 million in CIP appropriation and \$11 million from emergency funds. This year, HPA is asking for the same amount to keep public housing operational. We are in the middle of a recession, and our State budget is billions of dollars short. Mr. Speaker, this measure is proposed as an attempt to keep our low income housing sustainable using federal tax credits. This company proposes to turn these buildings into mixed-income housing. Although this will help the State in that it will not need to subsidize public housing anymore, the very poor will lose more affordable rentals. Asking tenants to contribute more will help them help themselves and future low income tenants have a place they can call home.

"This bill also asks that costs of repairs to these units and common areas for damages which were caused by tenants, be passed on to the tenant who created the damage, rather than the taxpayers subsidizing the repairs. This will create accountability and eventually a sense of 'pride of ownership.' Again, it is not doing anyone a favor to give these low-income residents a 'free ride.'

"This bill also prohibits preferences for tenant selection. There are 14,000 names on the waiting list for affordable housing. Some people have been working the loop-hole of fast tracking the system to move up higher on the list. We need to level the playing field.

"For the last three years: 2005, 2006, and 2007, the Legislature has passed a Resolution for HPHA to be audited for being a 'troubled performer.' Based on these performance audits, the suggestion was to make the tenants selection process more stringent to pay market rent, but can contribute to their housing needs. These are the "working poor." These people should be given priority over people with poor rental histories and criminal convictions.

"These preferences are contradictory to the audit recommendations. Presently, the preferences are penalizing prospective tenants who are working. There is a built in disincentive for people to work. These audits are paid for by the taxpayers and mandated by the Legislature, yet so far no one has bothered to implement their recommendations. We are trying to help HPA comply with the mandate of HRS 356 D-43(a) to have rents cover the costs of family and elderly housing. The law mandates that these affordable housing projects be self-sustaining. We may not be able to subsidize these programs anymore, which leaves us the only option of selling to for-profit companies, which will diminish available low income inventory. I say we increase low income housing. I ask my colleagues to vote yes and save HPHA."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1694, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC HOUSING," passed Third Reading by a vote of 48 ayes to 2 noes, with Representatives Marumoto and Thielen voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 806) recommending that H.B. No. 697, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 697, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I'm voting with reservations in light of our fiscal situation. I think this particular bill, although well intended, should be one that maybe we would consider not passing. This is over and above what is coming from the stimulus, and so, there will be some relief coming from the stimulus package. Thank you."

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

"Mr. Speaker, on the same measure. Just reservations. I do believe after analyzing some of the stimulus package, that this would definitely qualify for stimulus money. So, there is no need to take money out of the general fund to do so."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 697, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TEMPORARY HEALTH INSURANCE FOR UNEMPLOYED PERSONS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 809) recommending that H.B. No. 989, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 989, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILDREN'S HEALTH CARE," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 810) recommending that H.B. No. 1371, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1371, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Just with reservation as well, on Stand. Com. 810. This area could also qualify for our stimulus funds, and I believe the Governor's team is looking into that right now. So, we can just flag this for the Finance Committee to possibly use these general funds for something else."

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

"Thank you, Mr. Speaker. With reservations on this particular bill, SCR 810. Actually, just for clarification purposes, the Governor is proposing to substitute general funds. So, in her suggestions to balance the budget, this is to actually substitute general funds, allowing the general funds to be used for something else. So, just wanted to make that clear."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1371, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CARE," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 811) recommending that H.B. No. 625, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 625, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Karamatsu rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Karamatsu's written remarks are as follows:

"I rise in support of House Bill 625, House Draft 1, Relating to Surcharge for indigent Legal Services. The Legislature finds that in the 2007 Assessment of Civil Legal Needs and Barriers of Low- and Moderate-Income People of Hawai'i, four out of five low- and moderate-income residents did not have their legal needs met and that legal service providers are only able to assist one in three who contact them for assistance.

"The legislature also finds that to increase the delivery of legal service, more funding is necessary. Additional funds could be generated by increasing the surcharge for indigent legal services, as recommended by the Access to Justice Hui in its Community Wide Action Plan: Ten Steps to Increase Access to Justice in Hawai'i by 2010.

"The legislature further finds that the Hawaii Consortium of Legal Services Providers has been working diligently to strengthen and increase outreach and services to low-income residents, and that each unique legal service provider requires a certain minimum amount of funding to meet basic expenses necessary to operate the respective non-profit organization or program. Therefore, the purpose of this bill is to change the allocation formula so that thirty per cent of all funds distributed shall be provided equally to all organizations or programs that meet the qualifications for receipt of the funds, in addition to a seventy per cent distribution of all funds pro rata under the current formula. Thank you.

Representative Shimabukuro rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Shimabukuro's written remarks are as follows:

"The Expansion of the Surcharge in District Court is long overdue. Since the start of the indigent legal assistance surcharge over 10 years ago, *assumpsit* cases have been exempt from this surcharge. These cases represent the bulk of civil cases handled in District Court and in FY07-08, of the 22,405 civil actions filed in District Court, 13,267 or (55.69%) were *assumpsit* cases. This represents over 13,000 filings where collection agencies and others are not paying their fair share of the Indigent Legal Assistance Fund.

"This bill is aimed to increase funding for legal services. Specifically, it would:

- Increase the surcharge from \$25 to \$65 in Circuit Court and Court of Appeal filings and increase it from \$10 to \$35 in District Court filings.
- Expand the surcharge in District Court filings from just summary possession to all cases, including collection cases.
- Continue to exempt: small claims cases, petitions for restraining orders, petitions for temporary restraining orders, cases in which the petitioner is proceeding in *forma pauperis* and all state and county filings.
- Adjust the distribution formula by providing an equal share of 30% of the collection to each legal services entity eligible to receiving funding. The remaining 70% would continue to be distributed *pro rata* based on the portion of their budget spent on direct legal services to indigent clients.

"Increase the Surcharge. This bill could potentially double the funds available for indigent civil legal services by increasing the surcharge on initial court filing fees in civil actions. In this time of economic recession, core services, like those provided by Legal Aid are fundamental to the safety net. These types of civil legal services help those in domestic violence situations, those who needed access to public assistance, those who are subject to predatory lending practices, those who are vulnerable due to disability and those who need representation in this complex legal system.

"This is a much needed bill to ensure that more low- and moderate-income residents have access to justice, which was strongly recommended

by the Access to Justice Hui formed by many different members of the Hawaii Bar."

Representative B. Oshiro rose to disclose a potential conflict of interest, stating:

"Ruling on a potential conflict. One of the recipients of this money, should this pass, I'm on the Board of Directors of that organization. Thank you," and the Chair ruled, "no conflict."

Representative Shimabukuro rose to disclose a potential conflict of interest, stating:

"I'm sorry, I also need a ruling on a potential conflict. I work at one of the agencies that could receive these funds," and the Chair ruled, "no conflict."

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

"With reservations on this particular measure, Mr. Speaker. Basically, what this bill does is, it increases the surcharge for Circuit Court fees. Some will go from \$25 to \$65, \$10 to \$35, \$25 to \$65, and so forth.

"And, one of my concerns was, the money raised in this will go directly to certain particular non-profits. I find some complications with that; that we're favoring just a few non-profits to get certain designations of taxes. I'm against that philosophy in general, and I believe that it should go to the general fund, and that we should make funding those non-profit services a priority in the budget.

"I'm also concerned with how this will impact those that cannot afford to file some Circuit Court motions, and different cases for people that have hurt them. For those that are low income, this would definitely increase the fees for them. For businesses especially, though. And, I think of small business when I talk about this. It may be just a 'mom and pop' store that has many clients that they work with that owe them money. Say they have 10 to 12 different cases that they want to bring to court in one day. That's going to significantly increase, and for some of them, if they are combined, it could be increased 350%. And, in this economy right now, we don't want to add additional burdens to the small business. Thank you."

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

"Yes, I stand with reservations. And it's based on much of the same argument, that the increase in fees at a very bad time. Thank you."

Representative Finnegan rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative B. Oshiro rose to speak in support of the measure, stating:

"Briefly, in support. Just to rebut some of those comments. This is really about access to justice. These non-profits actually serve to make sure that those low-income people that were talked about, can access the courts, they can get legal representation whenever they are brought to be a defendant in a court action, or if they need to pursue a claim in court.

"But, first and foremost, I just want to clarify that these fees, actually, are recoverable if the plaintiff ends up prevailing. The judgment costs are allowed, and costs will become part of the judgment. Therefore, it is clearly reimbursable. And so, it's more like a pass through. That's really what we're seeking in these times when we're not going to be having purchase of services, or grants-in-aid. What we need to look at is creative ways to make sure that these people who cannot access justice, cannot access the courts, can continue to do so. Otherwise justice will be meaningless. Thank you."

Representative Pine rose to respond, stating:

"Just in rebuttal. It's very difficult to have access to justice, if you can't pay for it to begin with."

Representative Shimabukuro rose to respond, stating:

"Yes, Mr. Speaker. I just want to respond to that. This bill would continue to exempt small claims cases, petitions for restraining orders, petitions with proceeding in *forma pauperis*, or when you're impoverished, and all State and county filings. So, if you're talking about someone that truly can't afford it, or a small business, they probably will not be affected by this bill. 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. 625, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SURCHARGE FOR INDIGENT LEGAL SERVICES," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Berg, Keith-Agaran and Marumoto voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 812) recommending that H.B. No. 1016, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1016, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Keith-Agaran rose to disclose a potential conflict of interest, stating:

"Mr. Speaker, can I get a ruling on a possible conflict. My law firm represents plaintiffs whose claims are being funded by a portion of this measure," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1016, HD 2, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS, OR ITS EMPLOYEES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 814) recommending that H.B. No. 1379, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1379, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PHYSICIAN ORDERS FOR LIFE SUSTAINING TREATMENT," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

At 11:56 o'clock a.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1694, HD 2  
H.B. No. 697, HD 1  
H.B. No. 989, HD 1  
H.B. No. 1371, HD 1  
H.B. No. 625, HD 1  
H.B. No. 1016, HD 2  
H.B. No. 1379, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 815) recommending that H.B. No. 1713, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1713, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I rise in favor of this motion. Just to add that we also have a problem with the same landlord. We have a very rich Japanese billionaire in my area; and also in the Aina Haina Representative's district, that owns two dozen properties in a very small area, in the one small neighborhood of Kahala, and has amassed at least 16 City and County violations. So, we would also like to see some action taken on this type of landlord who neglects his property and causes visual blight, and some safety and health hazards, as well. Thank you."

Representative Shimabukuro rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Shimabukuro's written remarks are as follows:

"Mr. Speaker, I rise to speak in strong support of House Bill 1713 HD2, which allows Civil Defense, when no emergency exists, to enter private property to mitigate hazardous situations after giving the landowner notice. The bill also provides for possible recovery and reimbursement of costs and expenses.

"This bill is similar to a bill I introduced this year. It was prompted by a real-life situation in my own district and elsewhere on the Wai'anae Coast. The flooding that took place earlier this year, creating road closures and property damage. A significant amount of the damage might have been alleviated had precautionary measures been taken beforehand to clear clogged streams and waterways that pass through or are accessed by way of private property.

"In speaking with Civil Defense personnel, I learned that they and others helping them in the flood emergency were frustrated in their attempts to gain access to private property. They were required to obtain very detailed written consent from all landowners along waterways which was very difficult and time-consuming, given the need for prompt action during a critical time.

"This bill, which has considerable community and public agency support, will make it possible to take preventive action before an emergency exists. In the case of private property, dangerous conditions may exist that pose risks of harm to adjoining landowners and others downstream. Allowing Civil Defense to enter private property, after giving proper notice to the landowner, will in the long run help not only the private owner but the community at large. The bill also provides for recovery and reimbursement of public moneys expended in this effort to make private property safer in the interest of public safety.

"I urge my colleagues to join me in supporting this important measure."

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

"With reservations. And said billionaire also has property in my district."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1713, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HAZARDS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 816) recommending that H.B. No. 268, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 268, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Thielen rose in opposition to the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Thielen's written remarks are as follows:

"Mr. Speaker, I rise in opposition to Standing Committee Report 816, House Bill 268, House Draft 1.

"The Assistant Registrar and the Administrator of Real Property Assessment Division have been meeting to develop the process this bill calls for. So it's already being done. It's unnecessary. It will happen without the bill, so let's save paper and table this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 268, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND COURT," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Thielen voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 817) recommending that H.B. No. 269, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 269, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Thielen rose in opposition to the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Thielen's written remarks are as follows:

"Mr. Speaker, I rise in opposition to Standing Committee Report 817, House Bill 269, House Draft 1.

"The Registrar of the Bureau of Conveyances and the Administrator of Real Property Assessment Division have been meeting to develop the process this bill calls for. So it's already being done. It's unnecessary. It will happen without the bill."

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

"On Stand. Com. No. 817, I have reservations. They're much the same as the previous bill. I just feel that this will be resolved, and the bill will be unnecessary. 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. 269, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Thielen voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 818) recommending that H.B. No. 345, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 345, pass Third Reading, seconded by Representative Evans.

Representative Coffman rose to speak in opposition to the measure, stating:

"Yes, Mr. Speaker. I rise in opposition to this bill. The County of Hawaii worked hard over many years to get this piece of legislation passed, authorizing the Pilot Campaign Funding Authorization. There's no reason to delay this project at this time. It does not use any general funds. The special fund account is protected by a \$3.5 million minimum balance. It can go below that. A cap of \$300,000 per election cycle is included to avoid any significant use of the special fund account.

"In meeting with the Campaign Spending Commission, I asked them if they would be able to support this Pilot Project; and their answer was 'yes.' Again, there is no reason to delay this project. Thank you."

Representative Belatti rose to speak in opposition to the measure, stating:

"Mr. Speaker, I also rise in strong opposition, and would like to make a few comments. As noted by the previous speaker, last year, this Body passed Act 244, which established a Pilot Program for publicly funded campaigns for the Hawaii County Council. This bill was the result of a long term, successful, collaborative effort among voter-owned election advocates, concerned members of the public, and the Hawaii County Council, who had lent the Pilot Project its full support.

"The benefits of publicly financed elections were evident to all last year. The potential to draw out fresh, new candidates who represented a broader cross section of the community; the elimination of influence and special interests, or private wealth from political campaigns; greater public trust in government; and more active citizen participation in the political process.

"Advocates of this measure before us today appear to fall into two categories. The first group of advocates argue that there's simply not enough money allotted to this Pilot Project because of the equalizing funds provision. The second group supports delay because they believe that publicly funded elections is simply a bad idea. If the criticism truly is a lack of funding, then let's look at addressing this problem by raising the current cap by modifying the equalizing funds provision. However, as drafted, simply delaying this inception date, without addressing the purported concerns is to delay for four years, the start of this Pilot Program. Such a delay sends a strong message to the public that this Body is not committed to voter-owned elections. It is fodder for public cynicism, that government is incapable of operating in any way other than business as usual. Thank you, Mr. Speaker."

Representative Ward rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Nakashima rose in support of the measure with reservations and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Nakashima's written remarks are as follows:

"Mr. Speaker, the Campaign Spending Commission in testimony on House Bill 345 urged the Legislature to be proactive rather than passively await possible litigation involving the equalizing fund provisions of Act 244, Session Laws of Hawaii 2008. The bill before us would delay the implementation of the public funding of Hawaii County Council elections to allow us to further study the issues raised by the Supreme Court's decision in *David v. Federal Election Commission*. This case was the basis for the Federal District Court order in *McComish v. Brewer*, No. 2:08-cv-1550, Order (Aug. 29, 2008), and found Arizona's equalizing fund provision "violates the First Amendment of the U.S. Constitution."

"As we have received no information from the Attorney General regarding the application of the above cited cases on this bill, I believe that it is necessary to keep this bill alive as a vehicle to address these underlying concerns and prevent an invalidation of the Hawaii law."

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

"Thank you very much, Mr. Speaker. With reservations, and may I just offer some brief comments. As one who worked with the former Chair of Judiciary on this bill, this was something that went from a large, statewide program into a pilot project. So, this is a very important measure, but when I met with the Campaign Spending Commission, I was left with the impression that the funding mechanism for this is really low, and that if they were to move forward, it would basically become a 'horse race'. In other words, whoever gets in and files first would get public financing, and if you didn't get in and file in time, then guess what? You're not eligible.

"It's that creation of an unlevel playing field which bothered me greatly. I hope that when the bill moves over to the Senate, that the Senate could look at it. Any kind of funding that could restore the program, I would support. But, as long as that inequity stays out there, I have to have reservations on this bill. Thank you, very much."

Representative B. Oshiro rose to speak in support of the measure, stating:

"Mr. Speaker, I rise in support. Just very briefly, I think there's actually another category of people that oppose this bill and I would put myself in one of them. I do support publicly funded elections. I have and continue to do so. However, what's throwing a huge monkey wrench into this problem is a decision in *McComish v. Brewer*, in the District Court of Arizona. That decision came out on August 29, 2008, after we passed out the Publicly Funded Pilot Project for the Big Island. And, unfortunately, in that case, they found that the equalizing funds is a violation of the First Amendment.

"Now, of course people will argue whether we are bound to that decision, is not necessarily dispositive. But, my concern is, that case does not go to trial until December 2009. After that, it's almost a certainty that that case will go up on appeal. And when it goes on appeal, it will go before the 9th Circuit Court of Appeals. We are part of the 9th Circuit Court of Appeals. Because this decision is based on the First Amendment of the United States Constitution, any decision rendered by the 9th Circuit Court of Appeals will be binding upon us, and will be binding upon this program.

"And so, what I would hate to happen, is for us to continue along this path, getting near 2010, getting near the election of 2010, suddenly the decision comes out that is completely out of our hands, and then all of a sudden, the Big Island County Council races are thrown totally up in the air into a complete uncertainty. And that, to me, is an untenable situation. And so, for that reason, I support a delay, at least until we see how the landscape and how the dust settles. At that time we can decide how we are to proceed. Thank you."

Representative Evans rose to speak in support of the measure, stating:

"Mr. Speaker, I stand in support. I wanted to add to this discussion, because there's also another reason, I think, we should forward this bill and keep it alive for discussion, and that is basically the real cost of implementing this. There was discussion about the equalizing funds, and for the candidates that want to use this program. But, I think there's more to that. There's so much that has to be done to actually implement this program. It's a lot of staff work, a lot of reports need to be generated, a lot of information technology and reports that have to be created and processes. And, this is a very time-consuming process, so all these policies and procedures have to be put in place.

"Right now, we're struggling with our economy, and I know that different State agencies have pointed out what the true costs of some of these programs are, and yet, the Executive branch is asking for all of these different divisions within these departments to cut back. So, I think it's legitimate to have this discussion and let Finance and our budget analysts really look at what the impact of this has on that department, especially at a time we're asking them to cut back. So, I think keeping the discussion going forward is a good thing at this time. Thank you."

Representative Belatti rose to respond, stating:

"Thank you, Mr. Speaker, just in response. To the speaker from Pearl City, I would like to acknowledge and concede to his point that there is a third category, and would like to acknowledge that. To the previous speaker, I think how I'd like to respond is that, of any State agency, I feel confidence in the State Campaign Spending Commission to execute and implement this program.

"The testimony before the Judiciary Committee revealed that they are well on their way to preparing for this program. As a former State Campaign Spending Commissioner, I know that they are very competent staff people who do very good work. And again, I have full confidence that they could execute on this given their budgeting as it stands now. Thank you, Mr. Speaker."

Representative Wooley rose in support of the measure with reservations and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Wooley's written remarks are as follows:

"I wholeheartedly support the concept of public financing for political candidates. The goal of public financing is to level the playing field and provide all candidates with an equal opportunity to run for office -- and win, regardless of their personal wealth or corporate sponsorship. This equal opportunity would promote ideals of democracy and a government that is truly for the people and by the people. That said, the logistics of public financing is not simple. Currently, there are legal challenges that jeopardize the Big Island's implementation of Act 244 and questions about whether there is enough funding to support the public financing goals. For these reasons, I am voting to move this bill forward for further discussion, but with reservations.

Representative Pine rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 345, entitled: "A BILL FOR AN ACT RELATING TO CAMPAIGN SPENDING," passed Third Reading by a vote of 37 ayes to 13 noes, with Representatives Belatti, Berg, Brower, Ching, Coffman, Hanohano, C. Lee, Luke, Morita, Rhoads, Saiki, Takumi and Thielen voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 826) recommending that H.B. No. 1525, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1525, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Shimabukuro rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Shimabukuro's written remarks are as follows:

"Mr. Speaker, I rise to speak in strong support of HB 1525, which relates to the awarding of Medicaid contracts by the Department of Human Services to non-profit insurance entities.

"The bid process for the QExA program was egregiously slanted. For example, one requirement was that you had to be a provider of managed care for the aged, blind and disabled population. Well guess what? DHS did not have a managed care program for this population in Hawaii at the time of the QExA bidding process. So, no Hawaii insurance company could possibly meet the QExA bid requirements: not HMSA, not Kaiser, not AlohaCare, not HMAA, not any local insurance company.

"This explains why AlohaCare's bid to be a QExA provider was returned unopened. This may also explain why my repeated requests to DHS for copies of the two winning bids have still remained unanswered.

"Who got the QExA contracts? Let me quote from HGEA's testimony in support of this bill:

The two for-profit companies, United Health Group, Inc. and WellCare Health Plans, Inc., have been accused of fraud on the Mainland. Last month, the federal Centers for Medicare and Medicaid Services (CMS) stopped WellCare from marketing and enrolling new members in its Medicare-backed drug and medical plans. CMS said that WellCare used forged enrollment applications and provided misleading or inaccurate information to potential customers of these plans. CMS also found WellCare's performance to be substandard in numerous areas and one of the worst performers among all plans. They also had complaints numbering three times the national average.

"This bill is not about curbing competition; it is about patient safety and quality of care. I firmly believe in competition, but not when it is obviously unfair as is the case here.

"Please support this measure."

Representative Ward rose to speak in opposition to the measure, stating:

"Mr. Speaker, I rise in opposition. It's because of the befuddling fact that it puts an uneven playing field between profits and non-profits, and if it's about the AlohaCare flap, I think they should be open about it. This seems to be a little bit underhanded to do that. Oftentimes, for-profit has been shown to be less expensive than the non-profits. As we know, non-profits have been skyrocketing their numbers and salaries, etc. So, I think this bill is really making the playing field uneven, and to the disadvantage of the taxpayers, who will end up having to pay more for their healthcare. Thank you."

Representative Shimabukuro rose to respond, stating:

"I just wanted to briefly rebut what was just stated. This bill, actually, it may appear to be not in support of competition. The fact is, is that the people that support this bill are totally in support of competition, but they just want fair competition."

"And, I just wanted to share a bit about the bid process for the QEXA contracts. One of the requirements was that you had to be a provider of managed care for aged, blind, disabled at the time of the bidding. Well, guess what? Hawaii did not have managed care for the aged, blind, disabled at the time of the bidding process, so, no Hawaii insurer could qualify. HMSA, Kaiser, HMAA, AlohaCare, none of them were eligible. And this explains why AlohaCare's bid was actually returned unopened from the bid process."

"So, that's why this bill, which may seem like a drastic measure, is necessary, and I urge my colleagues to support it for further discussion."

Representative Pine rose to speak in opposition to the measure, stating:

"Yes, in rebuttal, and in opposition. I will concede to the point in the way that the language was written, that excluded some non-profits, probably was very unjust, but it does not justify the fact that, now, we're just going to make it only for non-profits. So, I think there's something very wrong with that language."

"I just simply believe that what this bill does, for example, for those of you who don't really know, it allows the Department of Human Services to restrict Medicaid contract awards solely and only to non-profit insurance entities. And, I just believe that this concept is false, and I oppose this bill because it's bad for Hawaii's healthcare consumers. It does not allow competition if it's only for non-profits. Currently, those that do have the contracts are for-profits. And, there is an image out there, and a belief, that non-profits in healthcare are bad people. And, I do have to say that the companies that currently do have some of our contracts are actually reducing costs for the State of Hawaii, and therefore reducing costs for the state taxpayer."

"And so, I just believe that we should not pass this bill at this time. Thank you."

Representative Cabanilla rose to speak in support of the measure, stating:

"Mr. Speaker, I rise in support. The Hawaii State Constitution does not allow the issuance of special revenue bonds to hospitals that are for-profit. And, this reminds me of Hawaii Health System, in my district."

"The idea is that non-profits are somehow more deserving of obtaining State assistance, since there is no profit involved to raise the costs. The same principals should be applied to the awarding of Medicaid contracts to non-profits only, as well. Non-profits do not charge the State for their profits, so they can keep the costs down. Many other types of State assistance, such as grants-in-aid, also show preferences for non-profits. Medicaid contracts should be no different. I urge my colleagues to support this measure. Thank you."

Representative Shimabukuro rose to respond, stating:

"Sorry, I just wanted to briefly rebut what was said earlier, about this being bad for consumers. The reason that this bill seems so drastic is that the current situation is really bad for consumers, and I wanted to just quote briefly from HCA's testimony:

"The two for-profit companies, United Health Group and WellCare Health Plans, have been accused of fraud on the mainland. Last month, the federal centers for Medicare and Medicaid Services stopped WellCare from marketing and enrolling new members in its Medicare-backed drug and medical plans. CMS said that WellCare used forged enrollment applications and provided misleading or inaccurate information to potential customers of these plans. CMS also found WellCare's performance to be substandard in numerous areas and one of the worst performers among all plans. They also had complaints numbering three times the national average."

"So, to me, this bill really is about protecting the consumer."

Representative Pine rose to respond, stating:

"Mr. Speaker, just in rebuttal, again. I think the key word there was 'accused.' I think a lot of us, in our official capacities have been accused of many things. But, the result is, what are they doing for Hawaii? And, the facts are, that for Hawaii residents, they are doing a good job. They are lowering the cost for all taxpayers."

"This bill infers that this kind of free and open competition does not benefit consumers, and I think the fact, later on is, as this process moves forward, will prove that it in fact, does. Thank you."

Representative Ching rose in support of the measure with reservations and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in support however, with reservations of H.B. 1525 – Relating to Medicaid. The proposed bill allows for procurement of all Medicaid contracts in the State and that DHS shall solicit proposals only from non-profit insurance entities and award contracts only to non-profit insurance entities. I am concerned that the language is too broad and the lack of open competition could lower the quality of service that people receive."

"The State Procurement Office says, 'HRS Chapter 103f applies to all state agencies, and should not place restrictions on a specific procurement for one agency. If there is justification for this particular procurement to be restricted to non-profit organization, it should be addressed in the competitive request proposals document, or it has a broader application, in the Medicaid administrative rules. The State must maintain a fair and equitable treatment of all providers, who deal with the procurement processes of the State.' Thank you."

Representative Finnegan rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1525, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAID," passed Third Reading by a vote of 46 ayes to 4 noes, with Representatives Marumoto, Pine, Thielen and Ward voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 827) recommending that H.B. No. 87, HD 2, pass Third Reading.

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 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 833) recommending that H.B. No. 1438, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1438, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE LOAN ORIGINATORS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

At 12:15 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1713, HD 2  
H.B. No. 268, HD 1  
H.B. No. 269, HD 1  
H.B. No. 345  
H.B. No. 1525, HD 1  
H.B. No. 87, HD 2  
H.B. No. 1438, HD 1

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 834) recommending that H.B. No. 272, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 272, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII REGISTERED AGENTS ACT," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 837) recommending that H.B. No. 172, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 172, HD 2, pass Third Reading, seconded by Representative Evans.

Representative McKelvey rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Bertram rose to speak in opposition to the measure, stating:

"Yes, in strong opposition. Just a quick word is that this is still continuing to implement the No Child Left Behind Act, and holding schools to loose standards that just as a route learning experience, which has proven to be a failure. We shouldn't be going down this road anymore. I really think we need to get rid of the Act, and then we can really look at our schools. Thank you."

Representative Coffman rose to speak in opposition to the measure, stating:

"Yes, Mr. Speaker, in opposition. A couple comments. Basically, President Obama's new Education Secretary, Arne Duncan, and Congress will be amending No Child Left Behind to make the law more fair in the coming years, on how we measure our students. I believe we should not be jumping the gun before President Obama, Secretary Duncan, and Congress have the opportunity to amend this piece of legislation. Thank you."

Representative C. Lee rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Finnegan rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. I rise in support. Thank you, Mr. Speaker. This particular bill is about reconstituting schools. Mr. Speaker, there's been some comments in regards to NCLB, and if you take a look and you

talk to people, teachers, parents, principals, Department of Education, there's a section, or quite a few people in there that said, if it weren't for NCLB, some significant changes may not be happening today. I understand, and as a previous speaker has spoken, that there may be some changes in NCLB to make it, quote unquote, 'fairer.'

"Maybe there are some changes that need to be made. But overall, putting teeth in accountability for our kids' education, making sure that we are moving in the right direction of educating our kids, is very important. Assessments and tests are very important. You don't, as some say, 'throw the baby out with the bathwater', because of maybe some negative effects of NCLB.

"Having said that, in regards to reconstituting schools, sometimes the formula of a school of the people who are there, whether it be teachers or principals or whatever, it's not the best mix for that particular school. It's very, very difficult to have, either teachers or principals move from one school to the other. And, we should at least have our thoughts moving towards what is best for the kids. What combination of teachers or principals are best for those kids, so that they can have a learning environment that is best for their learning.

"And I think by automatically saying 'no,' I don't think that the DOE, we should not be able to do that. I think is wrong. I think we should be looking out for our kids and what best learning environment there might be, instead of looking at, how do we protect people. We have to think about creating the best learning environment for our kids. That could mean that for that particular combination of people, at that school, that might not be the right combination. Thank you."

Representative Ward rose to speak in support of the measure, stating:

"Mr. Speaker, I rise in support. Mr. Speaker, this bill is not perfect, No Child Left Behind is not perfect, but one thing that will never wither away in both of those is accountability. Even though they're going to amend it, accountability is going to be built into it. We face a crisis in education in this country. For the first time in the history of America, in this State, people 40 years old and above, are more educated than people who are 20 years old and below.

"We are 'dumbing down' our future generations. Usually, the kids are always smarter than their parents. Now it's in reverse. That is a very, very bad sign. We're slipping into third-world education. We've got to have accountability. It won't go away, and this bill gives and empowers accountability. Thank you."

Representative Keith-Agaran rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Berg rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Nakashima rose in support of the measure with reservations and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Nakashima's written remarks are as follows:

"Mr. Speaker, this bill was proposed by the Superintendent of Education and would allow for the reconstitution of a public school that has been in restructuring for four or more school years. I am concerned that the Superintendent would seek legislative relief before addressing these issues in good faith with our public sector unions. The bill has been amended by the House Education and Labor Committees to require that these procedures be negotiated with the respective unions, which is why I am now able to support these proposals.

"As passed by Congress, the "No Child Left Behind" legislation explicitly left intact any existing collective bargaining agreements and protected the rights of teachers, principal and other school employees. There is nothing in the law that prevents the Superintendent from seeking amendments to these contracts to provide for the extreme case of a school

that has not been able to make any progress. Obviously in this case, we must seek some other remedy.

"I am concerned that as the criteria for passing the test approaches one hundred percent under the "No Child Left Behind" law, every public school will soon find themselves failing as the law would require that every test be absolutely perfect -- an unobtainable criteria which will eventually sentence every public school in the nation to failure."

Representative Ching rose in support of the measure with reservations and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in support however, with reservations of H.B. 172 Relating to Reconstituting Schools. I am concerned that this bill might have a negative impact on teachers. It seems the DOE will have the power to remove or transfer teachers to another institution, not because of anything they personally have done wrong, but because the school as a whole is not performing at an acceptable level. Having been a teacher myself, I do worry that this bill might not be fair to our educators. Thank you."

Representative Aquino rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Takumi rose to speak in support of the measure, stating:

"Thank you very much, Mr. Speaker. In support. I wasn't going to say anything, but when two members of the Minority Caucus support the bill, sort of an out-of-body experience, if you know what I mean.

"I actually support this bill for different reasons than the Minority Leader. I actually don't support No Child Left Behind. I believe a high-stakes testing, one-size-fits-all approach is not the way we do school reform.

"However, in this particular bill, I urge colleagues to actually read the bill. When you reconstitute a school under this measure, it has to take into account many other factors besides just test scores. I can tell you, Mr. Speaker, if we see schools that are not doing well, I can assure you they are falling short in a number of areas, not just test scores. They more than likely have a high absenteeism rate. They do not have strong leadership. They have teachers who may not be as committed or dedicated or highly qualified as we may want. They lack community support. The children in that campus may not feel healthy and safe. The curriculum might need some tweaking. It may not be sequential or an integrator. There are just many factors that go into whether a school is successful or not.

"But, I do agree on a central premise, that if a school does well, or if a school does not do well, I look at the adults in that school, and not the children. I frankly think it's the adults in that school that make or break a school.

"So, what this bill really does, is to give the superintendent another tool, granted, a heavy tool, a draconian measure to look at whether or not you walk into a school and say, 'We're going to reconstitute this campus.' There are 26 states that have this measure that would allow a superintendent to do this. I think, again, it is just one approach. It's not the absolute approach.

"If you read the studies, and I urge colleagues to read the Fordham Foundation study that was done. They looked at Prince George's County in Maryland, where they studied six elementary schools that were reconstituted in 1996, and they went back and looked at those schools in the year 2000, and how they did.

"We should do things, Members, based on research, based on what makes sense, but ultimately, and most of all, what helps our children. Thank you, Mr. Speaker."

Representative Finnegan rose to respond, stating:

"Thank you, Mr. Speaker, I'd like to adopt the words of the previous speaker, the Chair of Education. However, aside from the NCLB comments, and just like to say we do agree on some things."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 172, HD 2, entitled: "A BILL FOR AN ACT RELATING TO RECONSTITUTING SCHOOLS," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Bertram, Coffman and McKelvey voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 840) recommending that H.B. No. 985, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 985, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Nakashima rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Nakashima's written remarks are as follows:

"Mr. Speaker, strong school communities and the delivery of quality public education continue to be a great concern of mine as a former educator. The advent of Act 51, with its academic and financial plans, shifted schools' focus away from the school-based budgeting process that has been a hallmark of the greater school autonomy granted by the legislature.

"I authored House Bill 985, HD2 Relating to Education, which is included in the House Majority Package. This bill is an important initiative in an effort to insure that schools comply with existing law that requires the school to solicit input from parents, teachers, students and the community in the allocation of school resources. This bill is a significant first step toward creating greater responsiveness and transparency in school level decision making.

"Transparency, responsiveness, and community support is especially important at a time when our schools face dwindling resources with which to teach our children."

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

"Thank you, Mr. Speaker. On this measure, Relating to Education, HB 985, School Finances and School Community Councils Appeals Process, I stand with reservations. Thank you. This bill requires fiscal accountability measures at the school level, and requires the BOE to develop an appeals process for school community councils.

"Mr. Speaker, in Act 51, there was a combination of parts that talked about how a school works, what authority a principal has, the government structure, that kind of thing. I've always been under the system that you have to try as best as possible, to push the decision-making down to the lower level, to the school level. By creating a process of appeals, it's really no different than what they're doing now. Anytime there's disagreement at the school level, they say, 'Okay, go up the chain of command,' and then it gets lost somewhere. Mr. Speaker, I think that's one of the reasons why I'm not supportive of doing that kind of thing.

"I hate to always bring up the Charter School system, but the Charter School system, whether you like it or not, those decisions are pushed down to the local school level. They don't have any other place to go. So, they have to figure it out. If there's a principal that makes bad decisions, that principal, through their leadership skills, or development of those leadership skills, will eventually have to communicate, do the things that that local school board wants them to do. And, there needs to be some kind of communication, and leadership skills on both parts to make this happen.

"What we often do, is we take those decision-making things out of the school level. That, I think is not the right thing to do. It wastes time. It takes away attention from what can be done at the school level. And, I understand why this bill is being submitted, or introduced, and that's because maybe we don't like the way principals make decisions in our communities. Well, then there should be an accountability measure at that school to correct that. There should be a way that the School Community Council can make something happen at the School Community Council. You can't do a 'one size fits all' approach, and that's what this bill basically does. It doesn't give credit to those principals who do a good job at communicating with their SCCs. It doesn't allow for school principals that, if they have an SCC that doesn't work, that they can take the leadership skills and move forward for the sake of the children.

"This is a very delicate matter, I understand that. But by letting us, the 76 of us, determine what happens at the school level, I think is something that just causes confusion in the whole governance system of the Department of Education and in our education system. So therefore, I am with reservations. Thank you."

Representative Evans rose to speak in support of the measure, stating:

"Mr Speaker, I rise in support. Mr. Speaker, in my previous life, I worked for a very large organization, AT&T. And, after that, I worked for the Department of Land and Natural Resources in Washington State. And, I can tell you, when you have a very large organization, after a while, you learn that sometimes you have to definitely have process spelled out for people.

"And, I believe that the Chairman of Education has been working on this topic of School Community Councils for several years now, and I think, as we work with this concept, we learn that sometimes, we have to have standard operating procedures. So, I think that it's time to keep fine tuning this, and I think this is good, because, as we know, we have so many schools in our Department of Education, and I think that this is the right thing to do."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 985, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 841) recommending that H.B. No. 1376, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1376, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Marumoto rose to speak in opposition to the measure, stating:

"Mr. Speaker, I'm in opposition to HB 1376. I am a little puzzled by this particular measure. I don't know why the Education Committee is advancing it. But, it would create a Commission to be appointed by the Governor to study certain aspects of our schools. And I believe the Department of Education is already pursuing the same type of study. So, I'm just concerned in that, if the two bodies, the two Commissions come out with different information, different results, different recommendations, it could be confusing to all of us concerned. Thank you, very much."

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

"Yes, thank you very much, Mr. Speaker and Members. I wish to speak with some reservations. Again, in all due respect to the Chairman. On this particular measure, on facilities, I believe it is the elected Board of Education's policy-making role to act on this particular measure and not the Legislature. However, I am aware that this bill is supposed to be a spur for them to act.

"But again, the danger that we are undertaking is that if we continue to make policy for the Board of Education, and the Board of Education just becomes more lethargic and does not carry out their responsibilities. A lot of the measures that we are passing should be the Board of Education's policy role. Constitutionally, they have that right. We have provided them the power to make policies for the Department of Education.

"So, we have a dual situation. We're making policy, and the Board is making policy, and it creates a lot of confusion. Thank you very much, Mr. Speaker."

Representative Berg rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. I rise in support, with just a few comments. Speaking as a Representative from the district where probably the first school will be closed shortly, I'm concerned about this whole issue of consolidation of schools, of course, as a Vice Chair, and also as a Representative of that district. At first, I wasn't real comfortable with the notion of having a Commission that would actually look generically at the criteria for schools to be consolidated, or to have the disposition decided. However, going through the process with my district school, I believe that having one Commission, one Council, one entity that will look at the whole process, and that have fair criteria, perhaps will be a little bit more reassuring to communities, rather than leaving it up to the different districts or different complexes or superintendents to decide the fate of certain schools.

"So, I rise in support of this, and I look forward to seeing what happens when it goes to the Senate. Thank you."

Representative Har rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Har's written remarks are as follows:

"Mr. Speaker, I rise in strong support of Standing Committee Report No. 841, House Bill 1376 House Draft 1, Relating to Education. This measure creates the Facilities Alignment Commission (FAC) to establish criteria for the selection of public schools to be constructed, expanded, consolidated, or closed, and recommend a list of areas for new school construction, and of schools for expansion, consolidation, or closure. This also requires the Board of Education (BOE) to comply with these recommendations if the legislature does not disapprove of them in their entirety. I support this bill to ensure effective planning for our schools.

"The Department of Education (DOE) currently has a "matrix" of their priorities for all capital improvement projects which is ultimately approved by the BOE. While the Department sets the priorities on the matrix, this list of priorities is inefficient in that we simply are not building schools fast enough or making repairs in a timely manner. This bill will help address these concerns by streamlining the priority listing.

"The FAC is an important step in having the DOE and BOE review, evaluate and make the best use of its assets and resources. The FAC would consider multiple issues when making recommendations to close, open, or consolidate schools. Furthermore, considerations such as the overuse or underuse of school facilities, school academic success, and whether the successes of schools are due to school size, will also be taken into account. Finally, a macro-perspective will be utilized by taking into consideration the best interests of the students, the best way to preserve their potential for success, and the impact of the consolidation or closure of a school, including the costs of deferred and future repair and maintenance. These recommendations would be made followed with public hearings to get appropriate public response to these recommendations. This would further ensure an objective and transparent process in systemwide planning.

"In Kapolei, the growing "Second City," the population of young families and the corresponding demand for schools is only increasing, while schools in other areas are aging and are underutilized. The FAC created by this measure would streamline the process and guide resources to areas that most need them. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1376, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 45 ayes to 5 noes, with Representatives Ching, C. Lee, Marumoto, Thielen and Ward voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 842) recommending that H.B. No. 242, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 242, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Tsuji rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Tsuji's written remarks are as follows:

"Mr. Speaker, I rise in strong support of HB 242 HD 1. As amended, this measure would play a vital role in supporting a more diversified agriculture industry in Hawaii. Currently, our State's farmers are oftentimes unable to make full use of – and therefore profit from – lesser grade produce. The proposed added-value processing facilities called for in this bill would therefore do much to broaden what can be made from such produce by providing our farmers with the means to develop newer, more innovative products such as guava jelly and pineapple juice. Utilizing off-grade produce in this manner would generate far higher returns for our agricultural producers while enhancing their financial stability in the process. Ultimately, then, these facilities would open the door to manufacturing a more extensive range of "Made in Hawaii" products that may be more easily exported than fresh goods, adding both value and a far longer shelf life to produce that might otherwise have gone to waste.

"HB 242 HD 1 would accomplish this important endeavor by appropriating funds for the planning and modification of value-added processing facilities at Maui Community College (MCC) and Del Monte. Already, MCC's Maui Culinary Academy has developed products that have added value to sugar, pineapple, and grape products grown on Maui. The Culinary Academy is also working with the Maui Cattle Company to develop products for non-prime cuts of beef. These efforts highlight the tremendous scope of untapped potential that can be harnessed through the creation of value-added processing facilities across the State. In the midst of our present economic crisis, and with this Body charged with the task of generating revenue rather than spending it, I believe that appropriating funds for such facilities represents a worthwhile investment in our future, and therefore urge my fellow colleagues to support HB 242 HD 1 and help Hawaii's struggling agricultural producers. Thank you, Mr. Speaker."

Representative Ching rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in strong support of H.B. 242 - Relating to Agriculture I believe this bill gives the opportunity to diversify the products that can be offered to consumers and provide products that may be more easily exported than fresh goods, such as cacao. The proposed facility will fulfill a vital need toward making our agriculture industry sustainable and will help address food security issues as well. The ability to create value-added products from agriculture resources is a win-win for both economy and agriculture.

"The Department of Agriculture states, 'The Hawaii Department of Agriculture recognizes the importance of value added processing as a component that can utilize lesser grade produce and add income to a farming operation. It also diversifies the products that can be offered to consumers and provides products that may be more easily exported than fresh goods. We greatly appreciate your committee's interest in assisting our agriculture procedures to obtain higher returns for their products and thereby achieve greater financial stability.' 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. 242, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 843) recommending that H.B. No. 318, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 318, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Marumoto rose in support of the measure with reservations and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Marumoto's written remarks are as follows:

"Mr. Speaker, I rise with reservations on HB 318 HD1, Relating to Vog Research. The bill appropriates an unspecified amount of federal funds under the Homeland Security Grant program to study vog and find specific varieties of crops resistant to vog.

"I have reservations because I'm just not sure what Homeland Security has to do with this. Can we even use this funding source? Would it be hard to meet grant requirements? Is it allowed?

"Even the state Department of Defense isn't sure on that one, and testified that the funding might be more appropriately taken from another source,

"For these reasons, I am voting with reservations on HB 318 HD1, Relating to Vog Research."

The motion was put to vote by the Chair and carried, and report of the Committee was adopted and H.B. No. 318, HD 1, entitled: "A BILL FOR AN ACT RELATING TO VOG," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 844) recommending that H.B. No. 1433, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1433, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Tsuji rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Tsuji's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in strong support of HB 1433 HD 2, which proposes much-needed improvements to the inspection, quarantine, and eradication fee collection process. Specifically, this measure would strengthen the funding mechanism for the Hawaii Biosecurity Program by establishing fines for those who fail to pay for or remit the fee, while also clarifying the scope of that fee by making exemptions for cement and liquid bulk freight.

"It goes without saying that, over the years, the threat of invasive species has increased manifold. In the absence of adequate funding, both our agriculture industry and our environment have been losing the war, whether against the coqui frog, miconia, or some other as-of-yet undiscovered, newly introduced pest. The passage of the Hawaii Biosecurity Plan in 2008 signified a landmark moment for Hawaii to begin turning the tide against invasive species. The comprehensive plan and its corresponding cargo-fee funding mechanism have together heralded a renewed sense of optimism concerning our ability to safeguard the State from unwanted pests. In hindsight, given the adverse effects of our unprecedented global recession, it was indeed a wise decision to shift the

funding mechanism for our State's inspection and quarantine services from one of dependence upon volatile and unpredictable general funds, to one based firmly on a fee-for-service model.

"This fee, and the fines imposed for failing to pay or remit it, are essential if we are to fully implement our innovative and comprehensive Biosecurity Plan, which has already made Hawaii the nation's leader in the prevention of invasive species. The upfront costs associated with bringing the program online are essential if we are to create a more efficient and streamlined infrastructure to deal with the high volume of imported cargo that must be painstakingly inspected for unwanted pests.

"Simply put, we cannot develop a sustainable agriculture industry if parasitic varroa mites infect our honey bees, thus compromising their ability to pollinate farm crops. We cannot have a thriving and robust tourism industry if aggressive red imported fire ants invade our parks, golf courses, and beaches, attacking visitors and tourists alike with their venomous sting. And we cannot expect to have a reliable energy source if opportunistic brown tree snakes inadvertently short-circuit our power lines on a regular basis, causing island-wide blackouts as is the case in Guam. The costs associated with the introduction of such pests far outweigh the perceived inconvenience of paying for the inspection, quarantine, and eradication fee, or its associated fine. In closing, I therefore urge my fellow colleagues to join me in my support of HB 1433 HD 2. Thank you, Mr. Speaker".

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

"Thank you, Mr. Speaker. I do have some with reservations for Stand. Com. No. 844. Thank you. Mr. Speaker, this bill establishes fines for failing to pay or remit the Inspection, Quarantine and Eradication Fee, and exempts liquid bulk freight and cement bulk freight from the fee. The Committee set a fine of \$100 per every half ton for failing to pay the fee.

"Mr. Speaker, this particular bill comes from last year, where we enacted this inspection fee, and I was against that bill at the time, because of the increase in cost of goods for residents, and I'm still not in support of it. Mr. Speaker, also, I believe the Department of Agriculture has also had a difficult time in finding people to do some of the work that is supposed to be funded by this Fund.

"Again, this is an increase in cost of goods. I don't agree with the Act in the first place, even though a lot of money is going into inspection. But, what this does is, most of the people who are not paying for this particular fee are airlines. It's the airlines that aren't paying for it. And, that's a place where we didn't charge in the first place, in regards to these types of fees.

"But what happens is, if you put on top of that another 'failure to pay' type of fine, I don't think that that's good for the airline companies. And, these airline companies, later on in the agenda, we have another bill that wants to help these airline companies by not charging them the GET on their fuel. So, if you want to help the interisland airlines, I don't think that this measure is a good one. Thank you."

Representative Awana rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Awana's written remarks are as follows:

"Mr. Speaker, I stand in support. In 2008, Chapter 150A was passed by this Body to address invasive species. This bill simply helps to provide clarification on that measure by excluding cement bulk freight and liquid bulk freight for which this measure was not intended. I support this housekeeping measure and I ask other Members to be just as supportive in taking protective steps as we work forward in addressing invasive species. Thank you, Mr. Speaker."

Representative Ward rose to speak in support of the measure, stating:

"Mr. Speaker, I rise in support with auditory comments.

[*Sound of coqui frogs.*]

"And, because of that, I'm for the bill."

Representative Wooley rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Wooley's written remarks are as follows:

"I support HB 1433, which amends the law relating to cargo fees by exempting cement and liquid bulk freight, allowing fines to be levied for the failure to pay the appropriate cargo fees, and requiring that money paid in fines be deposited into the pest inspection, quarantine, and eradication fund. I applaud the primary author of this bill. If this bill becomes law, it will help to protect our economy and our fragile ecosystem from invasive species by setting forth consequences for individuals who fail to pay the existing cargo fees. I also hope this measure will help to address problems caused by the lack of adequate funds to fully implement eradication measures for alien species."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1433, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INVASIVE SPECIES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

At 12:37 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 272, HD 1  
H.B. No. 172, HD 2  
H.B. No. 985, HD 2  
H.B. No. 1376, HD 1  
H.B. No. 242, HD 1  
H.B. No. 318, HD 1  
H.B. No. 1433, HD 2

At 12:37 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:49 o'clock p.m., with the Speaker presiding.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 846) recommending that H.B. No. 281, HD 2, as amended in HD 3, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 281, HD 3, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. In regards to Stand. Com. Report No. 846, Relating to the Environment, I'd just like to vote with reservations. I just have concerns that it might be too prescriptive. 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. 281, HD 3, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENT," passed Third Reading by a vote of 49 ayes, with Representatives Sagum and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 850) recommending that H.B. No. 574, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 574, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Finnegan rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. In regards to Stand. Com. No. 850, Relating to the deposit beverage container program, in opposition. I know that in the Governor's proposal for the budget, this is one of the areas where she's suggesting that there be a raid. Instead of expanding the program right now, we're under, like we said, a really different situation this year, where we have to make up for a lot of money, and balancing the budget.

"And so, instead of expanding programs, we should be, not necessarily moving forward on any expansions, and looking for ways that we can balance the budget. I think this is an additional \$9 million we would have to make up. 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. 574, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE DEPOSIT BEVERAGE CONTAINER PROGRAM," passed Third Reading by a vote of 47 ayes to 2 noes, with Representatives Finnegan and Marumoto voting no, and with Representatives Sagum and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 851) recommending that H.B. No. 834, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 834, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Thielen rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. Mr. Speaker, I'm rising to oppose Standing Committee Report 851, House Bill 834, Relating to Water Quality Standards. Mr. Speaker, Mayor Hannemann came over to our Committee and asked us to support the bill to reduce our water quality standards, and this is because of the City's ongoing litigation where it has been sued by the Sierra Club and other environmental groups for contaminating the water with their waste water treatment emissions. They've been found in violation by the federal government, as well. The bill, plain and simple, lowers water quality standards for Oahu, and it does it by tying Hawaii's fragile ecosystem to federal standards, that are based upon East Coast waters.

"Those East Coast waters are vastly different from our subtropical ecosystem. And, it's well known that among the many differences, Hawaii residents eat three times as much fish, and we enjoy our beaches year-round, compared to our mainland counterparts. So, tying us to East Coast standards really doesn't make any sense.

"We also go much further offshore, snorkeling, surfing, sailing and fishing, and so, the infrequent use designation for waters 500 meters out, simply doesn't apply to Hawaii.

"Since this measure is before the courts, we're being asked by the Mayor to step in, in the middle of the litigation, and I always think that's a bad idea, when people come to the Capitol and say, Let's impact what's going on in the Judicial system."

"I think that this bill should not move forward, and in the event it does, I hope our side rethinks it, and does not go to Conference Committee on it. Thank you. And, I think our surfers, snorkelers, fisherman, fisherwomen, all of them will appreciate it if we keep our waters clean. Thank you."

Representative Evans rose to speak in support of the measure, stating:

"Mr. Speaker, I stand in support. Mr. Speaker, I just wanted to comment on the previous speaker saying that we're doing this for an elected official, and I don't believe that. I actually believe that sometimes issues come before us, and they come before us in many ways. This just happens to have been on the front page of the paper, this discussion about a wastewater treatment plant. Sometimes when issues like that come

forward, it makes us rethink and revisit our regulations, and this brought to our attention water quality standards.

"I think it's very appropriate for this Body to actually be looking at it, now that our consciousness was raised on this issue. And, when we heard some discussion in our Caucus from the Chairs that were involved in this, it seems that our water quality standards have not been changed in many, many years. And so, it's very appropriate for us to move this forward. Thank you."

Representative Ward rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Pine rose to speak in opposition to the measure, stating:

"Yes, Mr. Speaker. In opposition. Through my district runs the pipelines from the wastewater sewage plant in upper Ewa. And, this would directly impact my constituents that use the ocean in Ewa Beach. And, I can tell you that they are not in favor of this bill.

"As the previous speaker who spoke in opposition to the bill, from Kailua said, that Hawaii's very different. And now we're trying to apply some different standards from the mainland. And, so on behalf of my constituents, I definitely speak against this measure, and think that we should be a lot more special than that. Thank you."

Representative B. Oshiro rose to disclose a potential conflict of interest, stating:

"Mr. Speaker, I'd like to ask for a ruling on a potential conflict. At my law firm, I'm one of the attorneys that represents the plaintiffs that have sued the City over their wastewater treatment plant," and the Chair ruled, "no conflict."

Representative Awana rose in opposition to the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Awana's written remarks are as follows:

"Mr. Speaker, I rise in opposition. If we are to override Administrative Rules, I do not see this measure as tightening up our water quality standards. Instead, I see it as lowering the standards which may ultimately lead to the detriment of those who live in our island state.

"The Office of Hawaiian Affairs had provided testimony on this measure. The existing standards are not conducive to the complexities to our island state. Coral reefs around the State are disappearing and near-shore reef fish have migrated to other areas to survive. Certain species of fish are deemed toxic and inedible for human consumption.

"Therefore, I believe to lower these standards and to pass this measure will be sending a message that our environment can be compromised. I have grave concerns on this and cannot support this measure. However, I appreciate the Chair of Energy and Environmental Protection in her attempt at bringing attention to the lackluster inattentiveness of the Department of Health in updating the standards that have long been overdue. Thank you, Mr. Speaker."

Representative Rhoads rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative C. Lee rose in opposition to the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative C. Lee's written remarks are as follows:

"From our bays and beaches, to our streams and their watersheds, Hawaii has among the highest water quality standards in the nation that has protected our environment and everyone who plays, swims and drinks this precious resource.

"The Department of Health has been tasked with revising Hawaii's water quality standards, but has been unable to follow through since 2005.

House Bill 834 assigns the Legislature the power to decide Hawaii's water quality standards since the Department of Health has been stalled so long. However, I rise in opposition to this measure, not only because this bill lowers Hawaii's overall water quality standards to match minimum federal requirements without regard to Hawaii's unique marine environment, but moreover, because it places such responsibility with the Legislature.

"We are not a scientific body, and we are not equipped to make complicated decisions with regard to the specific science behind our water quality standards. As history has shown, the Legislature is a forum to bring all to the table and come up with a compromise. However, some policies cannot and should not be compromised, and our water quality is one of them. In the past as a matter of policy we have left these standards to best science in the Department of Health. Moving these standards back to the realm of the Legislature will move these standards back to the realm of compromise, and as has been the case in many other states whose legislatures dictate water quality standards, we risk basing our water quality standards on a compromise, for better or worse, but not on best science.

"By keeping our water quality standards dictated by Administrative Rule, we ensure that proper minds with specific experience vet such standards and prevent the corruption or circumvention of our water quality laws by special interests or as a result of the political process."

Representative Belatti rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Ching rose in support of the measure with reservations and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in support however, with reservations of H.B. 834 – Relating to Water Quality Standards. The proposed bill amends State water quality standards for marine waters to conform to federal standards in regards to pollutants for the protections of aquatic life in surface water and for the protection of human health for consumption.

"While this measure seeks to improve the water quality standards, non-priority pollutants in Hawaiian waters are unknown. If non-priority pollutants are adopted blindly, treatment plants will be required to initiate testing for these constituents, and if found at levels higher than the standards the facilities could be held liable for violation of these adopted standards.

"According to the Sierra Club, Hawaii's standards should be different due to the amount of people in the water and the high fish diet of people in the area. Laurence K. Lau, the Deputy Director of Health for the State of Hawai'i has stated that, 'fish consumption standards are 3.1 times more stringent than EPA Criteria, because the average daily consumption of fish locally estimated is higher than average'. The passage of this bill would lead to violations of federal standards that should not apply to Hawaii's waters. Thank you."

Representative Wooley rose in opposition to the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Wooley's written remarks are as follows:

"Water quality standards for pollutants usually are set by state and federal agencies after experts expend significant time, effort, and resources to ensure public health is protected. This bill, however, makes the Hawaii State Legislature become "the expert" making the decision to seriously degrade our existing water quality standards without requiring any scientific analysis of the effects these changes will have on human health or aquatic species. While this decision may help the City and County of Honolulu save money, it is not an appropriate decision for the Legislature and may come at the expense of our tourist economy, the people of Hawaii, and aquatic species. I am particularly concerned about public health risks that may be caused by these reduced water quality standards because Hawaii has a high level of fish consumption as well as large

numbers of people who use (and many who frequently use) our coastal waters for recreation."

Representative Keith-Agaran rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

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

"Thank you, Mr. Speaker. As an ocean-water swimmer, with reservations."

Representative Pine rose in opposition to the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Pine's written remarks are as follows:

"Mr. Speaker, I rise in opposition to HB 834, HD2, Relating to Water Quality Standards.

"Did you know Hawaii possesses 85 percent of the coral reefs in the nation? Do federal water standards even attempt to address this sensitive part of our ecosystem?

"They do not. In fact, federal standards have never been applied to subtropical coral reefs – so how do we know what will happen if we decide to undertake that experiment?

"Already because of pollutants, some reef fish are so full of toxins that people are advised not to eat them. Do we really want to take a step toward hastening this process by loosening our standards without first getting some element of scientific certainty?

"Our wonderful beaches and our beautiful coral reefs bring tourists and are a big economic driver in our state. Do we really want to put all that at risk?

"I don't. And for that reason, I am opposed to HB 1712 HD 2, relating to fishing."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 834, HD 2, entitled: "A BILL FOR AN ACT RELATING TO WATER QUALITY STANDARDS," passed Third Reading by a vote of 41 ayes to 8 noes, with Representatives Awana, Berg, C. Lee, McKelvey, Pine, Saiki, Thielen and Wooley voting no, and with Representatives Sagum and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 852) recommending that H.B. No. 1483, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1483, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Rhoads rose to disclose a potential conflict of interest, stating:

"Mr. Speaker, just needed to request to see whether I have a potential conflict of interest. Better Place Hawaii is a client of my wife," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1483, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS FOR BETTER PLACE HAWAII, INC.," passed Third Reading by a vote of 49 ayes, with Representatives Sagum and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 857) recommending that H.B. No. 638, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 638, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Choy rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Choy's written remarks are as follows:

"This bill is based on two premises:

1. A contract, once protested will be prevented from starting or if started, will cause severe financial consequence for the State.
2. The administrative hearing process is lengthy because of the nature and diligence of the process.

"Because of these constraints, a protest should not be frivolous or made for an immaterial amount. Therefore the Procurement Officer shall dismiss the protest if the amount of the error is one percent or less of the bid amount of the person awarded the contract.

"Additionally, this bill requires a person protesting a bid to:

1. Deposit a protest deposit of 1% of the contract, for contracts over one million dollars, but protest deposit should not be more than \$50,000.
2. The protest will be dismissed if the amount of the discrepancy is not more than 10% of the total value of the contract.

"This bill will hopefully make any protest a thoughtful one, with everyone knowing the serious consequences to protesting a bid. In addition, the procuring office can help avert protests by making the bid process clear and not conducive to misinterpretations."

Representative Finnegan rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. In opposition and short comments. Mr. Speaker, this bill requires the dismissal of frivolous or bad faith protests. Currently, there is no explanation as to why this is necessary. There has been no favorable testimony, only negative treatment from the State Procurement Office, which has been in DAGS, and so I'm voting 'no.'"

Representative Ward rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 638, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII PUBLIC PROCUREMENT CODE," passed Third Reading by a vote of 48 ayes to 1 no, with Representative Finnegan voting no, and with Representatives Sagum and Takai being excused.

At 1:58 o'clock p.m. Representative Finnegan requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 2:02 o'clock p.m.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 859) recommending that H.B. No. 425, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 425, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST HONOLULU SEAWATER AIR CONDITIONING, LLC PROJECTS ON OAHU," passed Third Reading by a vote of 49 ayes, with Representatives Sagum and Takai being excused.

At 2:05 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 281, HD 3  
H.B. No. 574, HD 2  
H.B. No. 834, HD 2  
H.B. No. 1483, HD 1  
H.B. No. 638, HD 1  
H.B. No. 425, HD 1

At 2:05 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 2:47 o'clock p.m.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 863) recommending that H.B. No. 586, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 586, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Thielen rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Wooley rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 586, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE KANEOHE BAY REGIONAL COUNCIL," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 864) recommending that H.B. No. 1604, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1604, pass Third Reading, seconded by Representative Evans.

Representative Finnegan rose to speak in opposition to the measure, stating:

"Mr. Speaker, I rise in opposition to Stand. Com. No. 864, House Bill 1604, Relating to Real Property. Thank you. This bill imposes a new tax on the value of improvements surrendered to a lessor, by a lessee, without compensation to the lessee, upon the expiration of a long-term commercial lease.

"In other words, if you rented property from me, and you built things on it, I would have to pay a brand new tax on the value of the improvement when I get the property back.

"So, even if I didn't ask for it. Even if I don't want it, I still have to pay a tax on the improvement of the property. This tax would be an addition to the added tax I would end up paying anyway, because the improvements raised the property value.

"What if a lessor wanted to give a start-up business a break by providing lower lease rents at the beginning of a long term lease, by allowing the lessee to construct, or install improvements on the property? This bill would certainly put an end to that practice.

"I understand, Mr. Speaker, that we are looking at ways to generate new funding sources, or new money, however, I believe that this is unfair. Thank you."

Representative Saiki rose to speak in opposition to the measure, stating:

"Mr. Speaker, I rise in opposition to this measure. I'd like to incorporate my comments from House Bill 1593. Thank you," and the Chair "so ordered." (By reference only.)

Representative Belatti rose in opposition to the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Belatti's written remarks are as follows:

"Mr. Speaker, I rise in strong opposition to HB 1604, for several reasons. As noted by the testimony of groups like the Tax Foundation of Hawaii, there are serious constitutional concerns about this bill including whether this Body has the authority to pass this law which imposes a real property tax on improvements made by lessees and whether this proposal interferes with existing contracts. For my opposition, however, I would like to emphasize the negative unintended consequences this bill may result in. For example, this bill could deter lessors from entering into long-term leases, which will reduce the pool of residential and commercial properties available for our residents and businesses. If lessors do decide to enter into long-term leases in spite of this law, they may decide to prematurely demolish lessee improvements to avoid paying the tax, which would be economically wasteful. For all of these reasons, I oppose HB 1604."

Representative Evans rose to speak in support of the measure, stating:

"Mr. Speaker, I rise in support. I wanted to make a couple comments, the first one on the Minority Leader's comments about lessors who may say, 'I'm getting something I didn't want.' Well, I'd beg to differ on that, because when you negotiate an agreement with any lessee, you always negotiate on the improvements that are going to be put in by the lessee.

"Personally, I've been involved in this business of helping lessees deal with lessors, and I have to tell you, that will come up in a negotiation. You put in the lease that you want it returned to its original condition. That is what you put in the lease. Unless, you see that you'd get the windfall. The windfall being, maybe a building, an outdoor structure. Maybe it is the waterline. Maybe it is the new road.

"I support this bill, because at the end of the day, it's not about real property: It's about improvements done by a lessee, and a lessor choosing not to have it returned to its original condition. And so, in the end, the lessor is getting an improvement, and a windfall. I guess you can almost say it's a capital gain, and I don't think this is a bad bill. I think it's a good idea, and I recommend we move it forward. Thank you."

Representative Chong rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Chong's written remarks are as follows:

"HB 1604 proposes to establish a mechanism by which the public may share in the gain of a landowner to whom improvements are surrendered at the expiration of a lease of the landowner's land. This bill subjects the improvements to a tax if the lessee constructed the improvements without financial or capital assistance from the landowner and did not receive compensation equaling the value of the improvements at the time of surrender.

"We all have heard instances of commercial and industrial lessees who have been forced to surrender improvements constructed at their own expense upon the expiration of the leases. The lessees have not been compensated by the landowners for the improvements. While legal, this situation does not seem fair to the lessees.

"HB 1604 is intended to encourage a landowner to compensate a lessee for the improvements surrendered upon the expiration of the leased land. The tax is to be triggered only if the landowner does not compensate the lessee for the surrendered improvements. Thus, the landowner may choose to pay the lessee rather than the tax.

"If, however, the tax amount is less than the value of the improvements, the public will benefit from the imposition of the tax.

"HB 1604 is a progressive measure intended to promote fairness for Hawaii's businesses, particularly small businesses, in these dismal economic times. Admittedly, valid criticisms have been raised against the bill. It, however, should be moved along in the legislative process while the criticisms are examined further. Its public purpose is a good one. Consequently, HB 1604 deserves further consideration by the Senate."

Representative Ching rose in opposition to the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition to H.B. 1604 - Relating to Real Property. I believe this bill might cause problems for both lessors and lessees, which in-turn could have a negative impact on our communities. Kamehameha Schools state in their testimony that, 'This bill does not recognize the severe burdens and risk placed on lessors when such properties are surrendered, including the need to make expenditures on repairs, demolition and environmental remediation, which may be difficult to impossible to collect from lessors. A tax on the value of the improvements without corresponding deductions or credit to lessor for its "losses" on these reversionary events would be unfair.' In 2003 the Legislative Reference Bureau said, 'There is no indication at this time of a broad compelling need for the Legislature to pass legislation to mandate the alteration of existing lease agreements.' Thank you."

Representative Pine rose in opposition to the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Pine's written remarks are as follows:

"Mr. Speaker, I rise in opposition to HB 1604, relating to Real Property.

"First off, why are we even doing this bill? No one testified in support of it. There was plenty of opposition, however.

"This tax really doesn't make any sense, and it could be considered an unconstitutional taking of private property because there's no justification that the proposed tax is rationally related to a public use or public purpose.

"It could also – depending how much the tax is and we don't even know that yet -- have a chilling effect on the leasing of real property in this State. That can't be good for the economy.

"For these reasons, I am opposed to HB 1604, relating to Real Property."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1604, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY," passed Third Reading by a vote of 40 ayes to 10 noes, with Representatives Belatti, Berg, Brower, Ching, Coffman, Finnegan, Hanohano, C. Lee, Marumoto and Saiki voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 865) recommending that H.B. No. 754, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 754, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Finnegan rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. In opposition to 865. Thank you. Mr. Speaker, in this bill, ex-officio members are to become an advisory group. So, what it does is, it takes away the members and becomes an advisory group. It does away with the section change and who appoints the Board.

"Mr. Speaker, I rise in opposition to this bill, because there is no reason for changing the way in which the HTA Board members are currently appointed, nor is there justification for the removal of the current agency make-up of the Board. Having DOT, BLNR, DBEDT, and SFCA involved in tourism policy development at the HTA Board level is the most effective way to optimize our resources towards tourism. By demoting them to an advisory group would be very wasteful and irresponsible.

"Mr. Speaker, this is another one of those bills that there was no testimony in favor of the bill. And, I'm starting to see quite a bit of these, where we don't have any testimony in favor of the bill. Without any public support and no tangible reasoning behind this restructuring, I don't think that this is worth our doing.

"Mr. Speaker, I just think that this is very valuable to have these members on the Board, and we shouldn't be moving in this direction. Thank you."

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

"Yes, Mr. Speaker, I speak in favor, but with some strong reservations. The only reason I have the reservation is because I believe this is a work in progress, and hopefully we can work it out in the Senate. But, to remove some of the members, and the advisory members, like DBEDT, I think, when you're looking at the long term and not the short term, it can be disastrous.

"DBEDT is the department that has to do with business, economic development, making predictions, and looking at the economy of the State. So if there is any place that they should be, it should be in HTA. And so Mr. Speaker, with these reservations, I would hope that as it moves on and goes onto the Senate, that we can work it out in Conference."

Representative Marumoto rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. I am voting no on this particular measure. The Minority Leader expressed very well the ramifications of this bill. You'll be taking away a lot of expertise that you might need in terms of transportation and land, and DBEDT.

"Speaker Emeritus talked in terms of looking more long term. Perhaps a lot of the newer Members of this Body are not aware that at one time, DBEDT, the Department of Business, Economic Development and Tourism, the Tourism person, the liaison for the Governor, Marsha Wienert, at one time did have a vote. We, this Body, took away that vote. She was ex-officio. But at least the Tourism person in the Department sat on the HTA Authority. Now we would not have her even there, except for maybe on call. And I don't think this is a wise move.

"I'm sure it is a work in progress. I would hope that we would improve it. We have a new HTA President/CEO who does not have an extensive background in tourism, and I would think that he needs all the expertise that he can muster. So I hope that this bill will change considerably before its final passage. Thank you."

Representative Pine rose and asked that the Clerk record a no vote for her, and the Chair "so ordered."

Representative Evans rose to speak in support of the measure, stating:

"Mr. Speaker I rise in support. I encourage us to look at this from a different viewpoint, and that is, if you consider what is being done, they're taking out four government agencies off of a voting Authority Board, and they are asking them to be in an advisory capacity.

"So what you're saying is the Hawaii Tourism Authority now will be focused on, if you look at the makeup of the Governor appointing the members, they will have expertise in visitor industry management, marketing, promotion, transportation, retail, entertainment, visitor attraction, have knowledge and expertise in the area of Hawaiian cultural

practices. Then also no more than three members shall represent, be employed, or under contract to any sector of the industry represented on the Board.

"I think what the Chair has done, is he's really brought forth the idea of more of a focus, a primary focus from people in the industry that understand the industry, that are focused on the industry. And is asking government, government agencies, who's not main purpose it is to understand the visitor industry, whose purpose is much wider than that, and asking them to come and be advisory in nature.

"So now, you have them advisory. You have the Department of Business, Economic Development and Tourism, you have the Department of Transportation, you have DLNR, and the Foundation on Culture and the Arts. I think this idea of them being advisory is very appropriate. Let the people who know the business be the ones on the Authority. Thank you, Mr. Speaker."

Representative Manahan rose in support of the measure and asked the remarks of Representative Evans be inserted in the Journal, and the Chair "so ordered."

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

"Thank you, Mr. Speaker. I rise in reservation. You know when the 7.5 million visitors were coming, no one said anything. Now when they're not coming, this bill, along with the other bill about getting rid of HTA or giving them more money, or less money. I mean if you're going to stabilize an industry, you've got to have a stable institution. What this does is, it makes it wobble all the more. You're downgrading some of the best and brightest minds, at least those who are the keepers of the culture of the Tourism Authority. So the advantages that we get out of this look like three steps forward, and two backwards. If we're going to stabilize tourism, we've got to stabilize who's doing what.

"I know we've got another bill coming up to even get rid of this whole organization, which really makes this bill even moot. But if that's our big industry, we have to handle it a little bit better than we are now. Thank you."

Representative Finnegan rose to respond, stating:

"Thank you, Mr. Speaker. I just wanted to do a short rebuttal on the comments having to do with taking away the departments' participation on the HTA.

"One is, they are going to be, according to the legislation, still giving their input, because they are in an advisory mode. So I still think that they even see the value of having those people sit on this committee. And if you're talking about focus, then why wouldn't we leave Marsha Wienert, the tourism person, in there?

"To me, now that I've heard that, now it makes me wonder, what is the underlying cause or reason for this bill in the first place? Is it just to get out, right now, the Governor's people? Because if you're looking at tourism, and we have a tourism liaison, why wouldn't that person, with all that experience, be on this Board? And be a voting member at that. Mr. Speaker, I am still in opposition. Thank you."

Representative Manahan rose to respond, stating:

"I wasn't going to say anything. I'm going to insert this in my written comments. But with regards to the comments of the previous speaker, I do believe that there is a reason. I will quote the Tourism Liaison's testimony before the Finance Committee saying that, 'Tourism and our economy are facing many challenges, and we must foster cooperation and coordination now more than ever.' I agree with that statement, however I think that what is happening, the reality of what's happening on the Board, in practice, is very different.

"For example, in the Finance Committee, I did pose a question to one of the directors, who is an ex-officio member, with regards to the Recreation

Renaissance. I asked them if this major, and it's a major proposal, about \$240 million which also uses the HTA funding, I asked if this proposal was ever discussed at the Board level, and she told me that it was not. And I asked her, "Why not?" and she said, "Well, because I spoke about it with the Chairman of the Board, and the Interim Executive Director, and apparently that was enough.

"Well, without any Board approval, I asked her if that was right. I can't go into DLNR with a \$240 million project, ask for \$3 or \$4 million from their Board, just by talking to that Director and that Chairman of the Board. I would think that kind of a major proposal would have to go before the Board, and go before a Board vote.

"Another case in point. The tax increase on the surcharge for the rental cars. That was never brought up on the Board as well. That was never discussed, and the Board never took a position on that. The Director of that Department is also an ex-officio member, who's supposed to bring these kinds of discussions forward.

"With regards to the DBEDT representative, I met with somebody from the Creative Industries Division, who uses their marketing for statewide marketing in North America, and they were not using the Hawaii logo. So in order to keep the branding consistent, that issue has never been vetted on the Board. So my question is, if that's the case, if these issues are not coming before the Board, then what are the ex-officio members doing? And perhaps if it's the case that they are too busy to attend the hearings or go to these meetings, which is very understandable, then maybe perhaps they would better serve the HTA as an Advisory Board. Thank you."

Representative Wooley rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. I rise in support and I'd like to submit written comments. I just want to add that some of the questions that came up during Committee hearings had a lot to do with who is making the decisions. We're talking about a Fund with over \$70 million of our dollars, so we want to make sure that it's done right. I think it's important that we move this bill forward, especially for discussion. Thank you."

Representative Wooley's written remarks are as follows:

"The Hawaii Tourism Authority faces an uphill battle in these challenging economic times and after recently losing staff and leadership. In addition, there is an immediate need for HTA to improve its planning, accountability, and breadth of services. This year is the perfect opportunity for the legislature to work with HTA to create a better agency. I support this bill because it provides the legislature with a method (or at least the means to discuss solutions) to strengthen HTA and ensure that our taxpayer dollars are well spent."

Representative Pine rose to respond, stating:

"I just want to thank the Tourism Chair for clarifying the intent of the measure, because we weren't very clear in the hearings that we've had. It seems like there is a dissatisfaction with how some things have been run. And that some people weren't, possibly, doing the things that this body would like them to do. But that's no reason to reorganize an entire Board. I think instead we should just sit down with them, or pass measures that would more clarify the steps of how decision making should be done, but not appear to the public as having a vendetta against a particular person that perhaps did not behave the way we had wanted them to."

Representative Tokioka rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. I am in strong support, and may I ask that the words of the speaker from Kalihi, specifically District 29, be inserted as if they were my own," and the Chair "so ordered." (By reference only.)

At 3:05 o'clock p.m. Representative Souki requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 3:08 o'clock p.m.

Representative Keith-Agaran rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Keith-Agaran's written remarks are as follows:

"Mr. Speaker, I rise to speak in support of HB 754, HD1, which will reorganize the Hawaii Tourism Authority (HTA) Board by removing the Director of Business and Economic Development, and Tourism, Director of Transportation, Chairperson of the Department of Land and Natural Resources, and Executive Director of the State Foundation on Culture and the Arts and placing them on a newly established advisory group to HTA.

"Generally, I support the bill because the change reflects reality. At present, the government members on the HTA are non-voting. Effectively, their current function is basically "advisory."

"The Chair of the Tourism Committee points out that there apparently is some indifference presently in being actively involved with the HTA Board. For example, on its most significant legislative issue of this Session, DLNR did not see the need to go to the HTA Board before proposing a raid of Transient Accommodations Tax funds to pay for that Department's important recreational renaissance initiative.

"The law presently allows these government HTA Board members to delegate their non-voting Board membership to some underling. As a result, these non-voting government directors often send designated employees to provide their non-voting input rather than attending themselves to provide their input. If these non-voting government officials are valuable as a resource providing non-voting insights on the impacts and effect of the tourism industry on government infrastructure and resources, making them advisory – and equally influential as non-voting advisors-- just matches the reality and practice with the written law.

"I strongly support this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 754, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TOURISM AUTHORITY," passed Third Reading by a vote of 44 ayes to 6 noes, with Representatives Ching, Finnegan, Marumoto, McKelvey, Pine and Thielen voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 866) recommending that H.B. No. 863, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 863, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Cabanilla rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Cabanilla's written remarks are as follows:

"The establishment of a County Transit Oriented Development Infrastructure Revolving Fund will allow the State to provide low- or no-interest loans to the counties to develop and construct infrastructure, particularly those involving affordable housing.

"This allows the State to have some role in the raising and management of the funding for such projects as affordable housing.

"I urge my colleagues to support this measure."

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

"Thank you, Mr. Speaker. On that measure, Stand. Com. No. 866, I'm voting with reservations. I'm just wondering where the seed money is coming from."

Representative Har rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Har's written remarks are as follows:

"Mr. Speaker, I rise in strong support of Standing Committee Report No. 866, House Bill 863 House Draft 1, Relating to Establishing a County Transit Oriented Development Infrastructure Revolving Fund. This bill creates the County Infrastructure Development Revolving Loan Fund within the Department of Budget and Finance to provide no-interest loans to the counties for the development, pre-development, or construction of infrastructure projects to expedite the building of transit-oriented development, especially those involving affordable housing.

"The City and County of Honolulu is about to embark on the largest public works project in the State's history, known as the Honolulu High Capacity Transit Project (Project). The Project is expected to spur transit-oriented development all along the mass transit corridor. To accommodate the expected future growth in these areas, upgrades and improvements to increase capacity to infrastructure in these areas will be necessary. Making these upgrades and replacements will result in more compact, dense, and coordinated development along this transportation corridor. I support HB 863 HD1 because transit oriented development (TOD) promotes walking-friendly communities, reduces traffic congestion, air pollution, and our dependence on imported oil. It increases transit ridership, making public transportation more economically viable, with an important goal of reducing urban sprawl.

"Through this measure we can have smart growth and develop real vibrant, sustainable communities. For these reasons, I stand in strong support. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 863, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ESTABLISHING A COUNTY TRANSIT ORIENTED DEVELOPMENT INFRASTRUCTURE REVOLVING FUND," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 867) recommending that H.B. No. 1388, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1388, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Thielen rose to speak in opposition to the measure, stating:

"Mr. Speaker, I'm rising in opposition to this measure. Mr. Speaker, what this bill will do is give concessions, lease rent concessions, to airport concessionaires. Here's some money for the Finance Committee, right here. If we give these people a break in their lease rent, that is less money that the Finance Committee has to be able to deal with the serious deficit that we have. Why should we single them out for this favored treatment? If we do that, shouldn't we look at anyone that is renting State land and say that we're doing it for the airport concessionaires, so we're now going to do it across the board for everyone in the State? I think that this just doesn't make sense.

"Yes it's a tough time. And yes, everyone has to work hard to make it. But we don't need to say to this one group, 'You're favored above everyone else.' We won't give the Finance Committee the money that they should be getting, Finance Committee, from these rents, because we're going to say that those concessionaires get a reduced rent. I would think that every Member in this Body who voted against the bill that would give lease concessions to the Mapunapuna tenants, should be voting down on this as well. As well as, I hope a lot of others that don't like the unfairness of this; that we single out one group for favored treatment, and tie the hands of the Finance Committee while doing it. Thank you."

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

"Thank you Mr. Speaker, with reservations. By changing the rules after the contract is bid and awarded, this bill undermines the statutory requirements for issuing bids. In so doing, this bill penalizes all parties, whether they bid in good faith, but failed to win the concession. Or whether they review the bid offering, but decided not to bid. Those parties who were not awarded the concession would have lost the bid to the winning bidder, who could be paying less than what they were willing to pay. The bill also prohibits the State from issuing concession agreements in the future. Thank you."

Representative Ching rose in support of the measure with reservations and asked that the remarks of Representative Finnegan be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative Awana rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. I rise in support. This measure will be helping many of the small businesses at the Honolulu International Airport in addressing their concerns during this unexpected economic downturn. This measure provides relief by making necessary adjustments to their leases so they can continue to provide conveniences to the travelers.

"Many businesses have operated and hired employees at the airport for decades, and I'm sure that they and their employees would appreciate our assistance by moving this bill forward. Thank you."

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

"Mr. Speaker, I rise in support. While I do appreciate the support from the Minority Leader, I do need to clarify that the monies that come out of these airport concessions' businesses do not go to the general fund, but remain at the airport to fund the improvements that are being made at the airports themselves.

"A second point Mr. Speaker, is that this measure, if approved, will allow the Governor's office, the Administration, the DOT, to renegotiate some of these leases where the airport concessionaires have been adversely impacted by the sudden and unexpected effect of the global crisis. This is similar to what happened post 9/11 Mr. Speaker, when we did pass emergency legislation to assist small businesses. This has a similar theme and tone to it. Thank you."

Representative Thielen rose to respond, stating:

"Thank you, Mr. Speaker. I appreciate those comments from the Finance Chair, however, if there is more money that is left within the airports system, then that's less money that we have to come up with to help the airports. It's unfair, Mr. Speaker, to have one group singled out. We have a lot of State land. We have a lot of lessees. What we're saying today is, there's only one that we care about. One group that we care about. And that's just flatly wrong. Thank you."

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

"Yes Mr. Speaker, I speak in favor of this bill. The Representative from Kailua mentioned that it's unfair that they should be given a break in renegotiating contract. But I think we all must remember that since 9/11, the situation in the airports has changed considerably. Where you can only go in and purchase things from one of the vendors of the airport if you have an airline ticket. So you're limited in that respect, you're not comparing apples and apples. You're comparing them with the other State lessees.

"Also, at the airport, there are other vendors that are getting this break to renegotiate. This is only trying to make it fair so that all would have the same opportunity. Thank you."

Representative McKelvey rose to speak in support of the measure, stating:

"Thank you very much, Mr. Speaker. In support. May I have the words of the Finance Chair, and the Chair of Transportation entered into the record as if they were my own? I also supported the other bill, so I'm being consistent. 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. 1388, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AIRPORT CONCESSIONS," passed Third Reading by a vote of 48 ayes to 2 noes, with Representatives Pine and Thielen voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 869) recommending that H.B. No. 601, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 601, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Marumoto rose in support of the measure with reservations and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Marumoto's written remarks are as follows:

"As a new state, Hawaii had the opportunity to take bold new steps to improve the quality of life for its citizens. Legislators dreamt big and enacted a pre-paid health law. The revolutionary leasehold conversion Land Reform Act came into being followed by a unique statewide land use law. A State Works of Art program, the State Foundation of Culture & Arts, funded by 1% of all capital improvement projects couldn't be far behind.

"Now it operates with only 1% of buildings funded by CIP bond money rather than all CIP, but the program is first class and helps support many local artists of all genres – painters, sculptors, muralists, performing arts – modern, traditional, Hawaiian, everything.

"With a downward spiral in revenues, legislators are now scrounging for money for all sorts of projects. The Works of Art Fund is a fat target. 'Let's grab half of it through HB 601 HD2 for other CIP projects or use it to buy facilities, or how about repair and maintenance of facilities,' say legislators.

"Well, if we take half, there will only be half left. That's not enough. We had better increase the amount received from State CIP authorizations. If we double it, we will be whole. Or if we blank out the percentage of the money we grab, and blank out the percentage of money we receive, nobody will know what we are doing!!!!"

"Well, I say, let's not decimate the program by raiding the fund. What do the introducers want to do with the money? How much do they need? Can we talk?"

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 601, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE WORKS OF ART SPECIAL FUND," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 871) recommending that H.B. No. 1204, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1204, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TOURISM," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

At 3:17 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 586, HD 1  
H.B. No. 1604  
H.B. No. 754, HD 1  
H.B. No. 863, HD 1  
H.B. No. 1388, HD 1  
H.B. No. 601, HD 2  
H.B. No. 1204, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 873) recommending that H.B. No. 1763, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1763, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Ward rose to speak in opposition to the measure, stating:

"Mr. Speaker I rise in opposition to this. This is a continuation of the previous bill which, I think we said was, at the time of tourism's downturn and we have a spiraling down in the vortex of organization within the Tourism Authority. This bill essentially gets rid of the Tourism Authority, Mr. Speaker. It's equivalent to the proverbial 'throwing the baby out with the bath', or firing the coach when he doesn't win, except you're firing the coach and you actually fire the whole team, you get rid of the whole team. Or we're starting to redecorate the state room when the ship, the State, the Titanic, is going down.

"It's untimely, it's uncalled for. I think it's good that the Representative from Kalihi and the Chair of Tourism is a very astute oversight individual, but there's a borderline between oversight and micromanaging, and I think we're bumping up against that very, very closely. Thank you."

Representative Herkes rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. In support. In strong support. Let me quote one of the members of the Hawaii Tourism Board, Mr. Steve Yamashiro, who said, 'Get rid of HTA. We're completely dysfunctional.'

"As the speaker from Hawaii Kai said a few bills ago, when we had 7.5 million tourists, we didn't pay close attention to things like HTA. And I have studied the HTA marketing efforts for many years. I've been concerned about them for many years. Let me give you an example.

"When HVCB used to be the prime marketer worldwide, for all of Hawaii, we knew where to go. Now they have split the marketing up. HVB has certain parts of the world. Other parts, *Dentsu* had something. Somebody else has somebody else. When the Japanese market started to fall on the Big Island, because the HVCB has offices there, the hotels would go to HVCB and say, 'You've got to help us with the Japanese market.' They said, 'Well, we can't do that because under our contract, we are not responsible for the Japanese market.'

"So they would say to the head of the HVCB, 'You've got to go talk to the head of HTA to try to straighten this out.' 'Well, we can't do that.' There's even the clause in the contract between HTA and the HVCB that said it prohibits anybody working for HVB to say anything derogatory about HTA. They put a muzzle on the industry. But they haven't put a muzzle on me.

"I have a problem with this whole issue going back to 1972, when I was Vice Chair of the Hawaii Hotel Association. We were called into then Governor Burns' office and he said, 'Don't ever give up fighting the room tax. If the Legislature passes it, I will veto it.' And we fought this successfully for years.

"And then there are certain members of the industry that felt that this marketing money, if used for marketing, would be variable. When it came time to vote for it in this Body, I was very concerned, and I said to the industry, 'Are you sure that you want me to vote for this TAT, because I

can assure you that you can't trust past, present and future legislators to keep their word that this money is to be for marketing, period.

"I think we need to reorganize HTA completely. Thank you."

Representative Finnegan rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. On Stand. Com. Rep. 873, I'm in opposition and have some short comments. Mr. Speaker, I'm taking a look at this, what I show are notes of what happened in Committee. I'm looking at it in the Finance Committee, and there are many opponents to this, and no listed people who are for it. Opponents, of course you have the DBEDT, Tourism Liaison, but there's also Hilton Hawaii, The New Otani Kaimana Beach Hotel, Classic Resorts Limited, the Hawaii Hotel and Lodging Association, Starwood Hotels and Resorts Worldwide, Inc., Outrigger Hotels, the Maui Chamber of Commerce, Maui Hotel and Lodging, Marriott Vacation Club, Ko Olina Beach Club, Activities and Attractions Association of Hawaii.

"But I guess my point is, who's in favor of this? Aside from people here. We ask for public comment, and we got public comment. All the public comment says they are in opposition to this. I think that that should serve as some guidance for our decision."

Representative Ching rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. Quite briefly, in opposition. When looking at who might do a better job of taking care of the business of tourism, is it government? Or is it business? HTA has those business people. And I'll just quote if I may, Mr. Speaker, Mr. Max Sword, who says, 'This bill would return tourism marketing back to the dark ages of inflexible marketing efforts, which is why the HTA was formed in the first place. This is a step backwards, not forward.' Thank you."

Representative Souki rose to speak in opposition to the measure, stating:

"Mr. Speaker, I will vote a strong 'no' on this measure. This is probably the worst thing that we can ever do to tourism. You take it away from a quasi-independent organization and put it where it was before, its like *déjà vu*, Mr. Speaker. A lot of the Members don't remember it. But I remember when it was under DBEDT, and we used to provide \$25 million, and it ended up with only \$5 million for marketing. The same thing is going to happen again. Yes, they've had a bad year or two, especially this past year, and there's a strong reaction now among some people in this Body and with our colleagues across the hall.

"But I think we're acting too rapidly in this measure. We should sit down and take a breath, and try to remember what happened in the past, and what good HTA has done. Yes, they're going through a bad year, but it's a global problem, not just HTA's problem. HTA has increased the revenue of the State of Hawaii tremendously from 1999, to where we are now. And the repayment that they get for doing that, is a repeal. I don't understand. I don't understand how the Members, unless you want to send a message, I can understand that. I see HB 2112.

"But you're sending a terrible message, not only to HTA, but you're sending a message to all of the tourist industry. The hotels, travel agencies, airlines. This is the message that's getting out: That we don't trust the HTA. They're doing a lousy job. So we want to repeal them. But if you try and reflect, and see why they are doing a lousy job, you'll find that historically, it's not the problem of HTA as a principal, as an entity.

"So Mr. Speaker, as this moves along, I would hope that the Members begin to look at some of the historic background, as to why we created HTA and how successful it has been. And look at the problems we've had in the past when it was under a department. Because it is our number one business, and believe me, it is our number one business. We need to keep it separate and basically independent of legislators, of people like me. I was the Finance Chairman when I took away a little bit from them too. But I know the temptation when it's not a quasi-agency, to begin to picking away and providing provisos so that eventually you won't have any money left for marketing. I've seen this happen.

"Mr. Speaker, in fact, what we should do is make it more difficult to add the provisos. And when we provide the marketing money, to make sure that all the money goes for marketing. Because that's the one that provides our 'bread and butter', the money for our education, our health, etc., etc. So please go slow on this measure. Thank you."

At this time, Representative Ward moved that H.B. No. 1763, HD 2, be recommitted to the Committee on Finance, seconded by Representative Marumoto.

The motion was put to vote by the Chair, and upon a show of hands, the motion failed to carry. (Representatives Cabanilla, Nishimoto and Takai were excused)

(Main Motion)

Representative B. Oshiro rose to speak in support of the measure, stating:

"Mr. Speaker, I'll be very brief in support. I think when we look at the Auditor's report dated January 2009, No. 09-02, I'd just like to quote something from it, because I think that explains why we're going in this direction. Whether ultimately it will pass I'm not sure, but I think it is worth examining.

Chief among the Authority's responsibilities is to create a vision of Hawaii's tourism and develop a strategic plan of its own that should serve as a roadmap for the organization and its partners. In the five years since our last audit, the HTA has spent nearly \$270 million in State funds, or 90% of its marketing funds. But without a strategic plan that maps out the long term goals and processes to assess the accomplishments of its major contractors, the Authority's Board of Directors is unable to demonstrate that the promotional dollars have been spent purposefully and or effectively, by failing to define its own strategies and account for its efforts, the Authority has not fulfilled its leadership role to manage Hawaii's tourism in a sustainable manner during times of economic decline or prosperity.

"I think if we don't want our Auditor just to be spinning her wheels and giving us reports that we just put on the shelf and never look at and collect dust, then that's one choice. But if we want to actually read her reports, take a look at them, examine them, and then decide what to do, at the end of the day with the final vote, when we've gone through the Session, I think that's a whole other matter. Thank you."

Representative Ching rose to respond, stating:

"Thank you, Mr. Speaker. I just wanted to add that, I don't know if I have exactly the right year, but in 2006, I believe, we were probably, thanks to the marketing efforts of HTA, the number one visitor destination in the world."

Representative Belatti rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative McKelvey rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Bertram rose in support of the measure with reservations and asked that the remarks of Representative Souki be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Manahan rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Manahan's written remarks are as follows:

"Mr. Speaker, I stand in strong support of HB 1763 relating to the Hawaii Tourism Authority. This bill would repeal the statute which

establishes the HTA Board and creates a stand-alone Department of Tourism and redirects the Tourism Special Fund to the DOTourism.

"It is important to understand a few things when considering this measure. First, this proposal before us is a proposal at this point, and the discussion is one that will be taking place eventually as the Tourism Special Fund, the funding mechanism of the HTA, will be sun setting next year. In light of this, I don't think it is unreasonable to begin this discussion sooner rather than later.

"Secondly, I want to thank those members who were open to considering this proposal, as we feel that the current Board has been dysfunctional to say the least. There is a State Auditor's report, which I'm sure many of us have read which sights specific deficiencies of the HTA, so I won't get into those details. But given this current economic crisis—a recession and near depression as it has been referred to by some—I do not think it is appropriate for this Board to be leaderless:

"The Board Chair should be working with staff to hold regular meetings with stakeholders and plan strategically, in order to get a pulse and a handle on our situation. Not to mention, the Board should be responsive to the House and Senate Committees when we ask to meet with them rather than playing politics. There are currently 11 of 12 members right now, and the Governor has not appointed anyone to fill the last seat even though the list of names has been submitted to her. I would think that this would be a priority.

"Meanwhile, we are facing 20% cuts across the board in every department and undoubtedly we will need to go vertical in order to balance a \$1.8 billion deficit. Both our public and private sectors are suffering—our schools, retirees, labor unions, hotels, hotel workers, the counties, airlines, car rentals, retailers, and non-profits are all feeling the effects of the sharp decline in visitor arrivals, and this Board is barely meeting. As a result, vendors, hoteliers, and various stakeholder groups are coming to the Legislature to address their issues. If this is going to be the trend, then I would safely argue, that we don't need the HTA Board.

"Finally, this Legislature is considering pay cuts and layoffs and putting everything 'on the table'. So if everything is on the table, then why not have this on there as well? Why shouldn't we look at restructuring our government to see where we can streamline our processes and make them work smarter for the people of the State?

"And on behalf of all the bills passed out by your Committee, Mr. Speaker, let me just say this: At the event last night where many of us were in attendance, the speaker during the closing remarks, compared change to a voyage—Inasmuch as it is important to have an idea of your destination and how you are going to get there, it is equally important to consider *why* we want change. I ask the Members to seriously think *why* it is we are considering this proposal at this point in time and if with good conscience you can tell me that change is not needed, then by all means, let's go on with business as usual. Thank you Members, I urge your support of this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1763, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TOURISM AUTHORITY," passed Third Reading by a vote of 42 ayes to 8 noes, with Representatives Brower, Ching, Finnegan, Hanohano, Pine, Souki, Thielen and Ward voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 874) recommending that H.B. No. 413, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 413, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, this is in regards to Stand. Com. No. 874. Just with reservations. I have comments in regards to, again, going back to balancing the budget. Something like this is a huge undertaking. This is basically establishing a State residential drug abuse program. I know that we also have difficulty in actually having some of these in-community residential programs already as it is. We also don't know the amount and what kind of fiscal impact that this will be.

"Mr. Speaker, I understand the importance of this measure in getting prisoners reintegrated back into the community, however, the timing is not very good."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 413, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 878) recommending that H.B. No. 990, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 990, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Herkes rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. In strong support. Mr. Speaker, this maybe the 5th or 6th year that this House will pass out the Natural Disaster Preparedness Plan for this State. Every other year it was killed in the Senate. There have been some changes in the leadership in the Senate and perhaps we might actually see this happen.

"There have been reliable reports that Hawaii is the least prepared state in the nation for a natural disaster. And we are the only state in the nation that has every single one. And I have them all in my district.

"The mindset of Civil Defense is to be prepared to respond to the event. Not to be prepared for the event itself. Some 5 or 6 years ago, the then Chair of Public Safety and I met with people, professors from the University, representatives from the insurance, real estate and financial institutions in the State of Hawaii. We spent many hours discussing natural disaster preparedness. What the University professors convinced us of was that we need to map all of the natural disasters that are apt to hit any part of the State with some degree of frequency and intensity. They assured us that that could be done.

"And we said, what then do we do with this information? And the information should be public. Everyone in this State should have some idea of what possible natural disaster might impact his or her home. We are short 74,000 shelters in the State of Hawaii. We have areas where there are no sirens. The district of Ka'u, which is larger than Oahu, has one disaster shelter, and that's the Ka'u High gym, which in the case of a strong wind would blow over.

"I think vog has highlighted the inability of Civil Defense to deal with natural disasters. When we get this information, then your land use planning should be based on impacts of natural disasters. Why was anybody living downstream of Kaloko Dam?

"Currently there is a reneance of a proposed development in Ka'u. In an area with no surrounding support community, that is lava zone 1 and 2, tsunami and hurricane. That just flies in the face of any good planning for this State.

"Let me give you another example. We haven't learned from New Orleans or from Houston. When those hurricanes went through there, the glass from high rises was flying all over the streets. Are we going to wait until that happens here? Or are we going to take a look at how we can harden structures that might be impacted by natural disasters. And get it done before the event hits. Did we ever think that the power might go out at the Honolulu Airport for whatever reason? And be prepared for that event? Instead of waiting to respond, this is a very, very important thing

for the safety of the people of this State, and I urge all of your support. Thank you."

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

"Yes, in support with reservations. I would definitely like to echo the sentiments of the previous speaker. I definitely support all those ideas. What I am concerned about, during this fiscal time when we're looking for money, I'm just concerned that this duplicates another department that's already in existence.

"The bill will duplicate ongoing emergency preparedness functions and planning preformed by the State Civil Defense division. This could cost millions of dollars, we're not really sure, but if there is an additional thing that we would like the current State Civil Defense division to do, perhaps we should just put that in statute and give them some more staff. Thank you,"

Representative Ching rose in support of the measure with reservations and asked that the remarks of Representative Pine be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative McKelvey rose to speak in support of the measure, stating:

"Thank you very much, Mr. Speaker. In support. And may I have the words of the Representative of Puna added into the record as if they were my own. And also just to inform people, there was a 5.2 earthquake in the Big Island I believe, yesterday. And that should serve as a big reminder that we are not prepared. Thank you, very much."

Representative Finnegan rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 990, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DISASTER PREPAREDNESS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 883) recommending that H.B. No. 142, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 142, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INTRASTATE AVIATION," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Berg voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 884) recommending that H.B. No. 145, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 145, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Finnegan rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 145, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," passed Third Reading by a vote of 48 ayes to 2 noes, with Representatives Bertram and Thielen voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 885) recommending that H.B. No. 617, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 617, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Karamatsu rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Karamatsu's written remarks are as follows:

"I rise in support of House Bill 617, House Draft 2, Relating to Mass Transit Route Economic Zones. This bill would create a taskforce to recommend parameters for the creation of mass transit route economic zones including eligibility, benefits, and incentives such as tax credits. The taskforce shall report to legislature on their recommendation of the process to designate mass transit route economic zones and incentives to attract businesses and affordable housing to encourage ridership. The policy goal is to make it very convenient for people who use mass transit to reside and do their errands, business, and social activities in the area of the mass transit stations. With such an incentive, we can achieve a sufficient amount of mass transit ridership that will patronize businesses near the mass transit stations. 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. 617, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MASS TRANSIT ROUTE ECONOMIC ZONES," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Berg voting no, and with Representative Takai being excused.

At 3:38 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1763, HD 2  
H.B. No. 413, HD 1  
H.B. No. 990, HD 1  
H.B. No. 142, HD 1  
H.B. No. 145, HD 2  
H.B. No. 617, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 886) recommending that H.B. No. 1037, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1037, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CIVIL ACTIONS," passed Third Reading by a vote of 42 ayes to 8 noes, with Representatives Berg, Hanohano, Keith-Agaran, C. Lee, Luke, Nishimoto, Rhoads and Saiki voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 887) recommending that H.B. No. 1163, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1163, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HARBORS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 889) recommending that H.B. No. 1168, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1168, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AIRPORTS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

At 3:39 o'clock p.m. Representative Pine requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 3:40 o'clock p.m.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 890) recommending that H.B. No. 1518, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1518, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Pine rose to speak in opposition to the measure, stating:

"Mr. Speaker, I'd like to stand in opposition to Stand. Com. No. 890. I rise in opposition to this bill because, under current law, it is illegal to visibly pass on the general excise tax if the price of the goods or services is fixed by law. Of course allowing the tow companies to pass on the general excise tax would give a special exemption to these companies. If this were to become law, Mr. Speaker, it would be the third consecutive year in which this Legislature authorized a price increase for towing companies. And in my district Mr. Speaker, with all our planned communities and very little places to park, we don't like the towing companies sometimes.

"We increased several towing fees in Act 269 of 2007, including increasing the basic tow rate from \$55 to \$65. Storage fees went up then as well, from \$20 to \$25. And mileage fees went up as well, from \$6.50 to \$7.50 per mile. In 2008, we reinstated a \$15 overtime charge in Act 135; that's usually when they come to your house and tow you at 1:00 in the morning, which is 90% of the time in my community.

"That makes this bill a bigger fee increase than we've had for any other particular area in the private sector, because these increases just kept increasing over the last several years. So I think in these economic times, I think we need to send a strong message to the consumer that we're not going to show favoritism to any particular industry, and especially when it comes to towing their cars. Thank you."

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

"Mr. Speaker, I rise with reservations. Mr. Speaker, having just had a bill regarding national disasters, and the economy going to 'hell in a hand basket', I find it greatly ironic that we are now fixing towing charges for the State of Hawaii as we focus on this bill. I think it's the epitome of micromanaging, and I would hope that in the future it would go to DCCA. Or it can go to DOT. But to have it as part of this Body's major concern, I think, is a waste of time. Thank you."

Representative Belatti rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative McKelvey rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Chang rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Nakashima rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1518, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES," passed Third Reading by a vote of 41 ayes to 9 noes, with Representatives Berg, Cabanilla, Coffman, Finnegan, Morita, Pine, Saiki, Takumi and Thielen voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 893) recommending that H.B. No. 1592, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1592, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 895) recommending that H.B. No. 1167, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1167, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Yes Mr. Speaker, in regards to Stand. Com. No. 895, this is the Highways Modernization Plan. I have strong reservations because of the immediate tax increase on liquid fuel, however I do understand that this has a defective date and we'll see it again should it move forward, and I will wait till then. This is an important issue that I'm sure, right now, could be helping our people in regards to being stuck in traffic, and some of these things described in the modernization plan will help us do that. Thank you."

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

"I rise in support, Mr. Speaker. But I do have one reservation on one aspect of the bill, and that is increasing the tax on liquid fuels, gasoline. Although we need traffic relief and improvement on our highways, the taxation of gasoline would impact us more who have to live in the outlying areas where we need to fill out our tank more often than the people that live in the urban core. So I would say this is taxing people from Ewa Beach more than the people in Honolulu. Thank you."

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

"Thank you very much, Mr. Speaker. With reservations. Just real quickly, while many of the ideas being put forward in the bill are admirable in trying to raise money for highway projects, what concerns me is the creation of a new special fund. Instead of putting the monies into the Highway Special Fund with SAFETEA-LU coming up before Congress, I think it sends a very bad message. Thank you, very much."

Representative Har rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. Mr. Speaker, I rise in opposition to Stand. Com. No. 895, HB 1167, House Draft 2. Mr. Speaker, this is the Administration's Highway Modernization Plan, which proposes to increase the fuel tax, the vehicle registration fee, the vehicle weight fee and rental motor vehicle surcharges, for purported safety and capacity improvements on, among other things, our freeways and roadways.

"Before I get started for my reasons in opposition Mr. Speaker, I first want to recognize the Chair of Transportation, because he does understand the need to make basic transportation infrastructure improvements. However my concerns with this measure deal with the impact it could have to residents of the Leeward side. Mr. Speaker, I am in opposition to this bill because when it is taken in conjunction with another bill before this Body, House Bill 139, known as the 'Toll Roads Bill,' it creates a system, whereby residents of West Oahu will be paying for capacity and safety improvements statewide, and would also be paying for additional capacity lanes out to West Oahu via a toll.

"Essentially, this bill imposes a double penalty against residents of West Oahu, because they would bear the burden of increased fuel taxes and vehicle fees, and a toll. Mr. Speaker, there's no equity for residents of Leeward Oahu to be paying for these statewide improvements and also having to pay for their own roads. What is so perplexing is that there is this contention from some members of this Body that government cannot

afford to construct new roads, therefore only those who would use the new roads should pay.

"However, in this bill, we now want residents of the West Side to pay for everybody else's road improvements? While there are few road improvements in this bill for the Leeward side, we must not double tax our residents. This bill, in conjunction with House Bill 139, will double the taxes for residents of West Oahu, because they are paying for statewide traffic improvements, and new road improvements.

"Another reason I am opposed to this bill is because of the safety and capacity improvements that are not part of this Highway Modernization Plan. They are not specified in this bill. I direct the Members' attention to pages 28 and 40 of this bill, and highlight the tenuous language which includes terms such as, 'safety improvements may include' and other vague terms such as 'various corridor improvements.' If my constituents are going to bear the cost of these increased fuel taxes and fees, shouldn't we know exactly what is being improved?

"Moreover Mr. Speaker, since 2006, I have been asking the Department of Transportation to reinstall the lights on the freeway eastbound and westbound between the Kapolei and Kunia exits. And the Representative from Mililani Mauka has made the same request, for the lights to be reinstalled on the H-2 Freeway. I would submit that reinstallation of these lights are a basic safety improvement. And yet these basic safety improvements are not included in this bill.

"When asked before the Finance Committee on February 27, 2009, the Department of Transportation was unable to confirm whether these lights were part of the modernization program. So until such time they do so, why should residents of West Oahu pay increased taxes and fees for such safety improvements when we don't even know if we're going to even get our basic safety improvements?

"Finally Mr. Speaker, the Modernization Plan proposes the implementation of a Vehicle Miles Traveled Pilot Program, which charges drivers a fee based on the number of vehicle miles used. Mr. Speaker, while this may work on the mainland, Hawaii is different. On the mainland, people with higher incomes live further away from the urban core, while those in lower tax brackets live in the urban core. Mr. Speaker, I submit that, to charge people who live further away in Hawaii is a regressive tax. You are penalizing those who live further away, who are paying extra money for living out there. They couldn't afford to buy homes in the urban core, in East Honolulu or Windward Oahu. And that's why we bought out on the West Side. It was affordable housing out there. And now to penalize us this way, through a Vehicle Mileage Pilot Program, continues to be inequitable. For these reasons I stand in opposition. Thank you."

Representative Pine rose to speak in opposition to the measure, stating:

"Yes, in opposition Mr. Speaker. And I would like to insert the passion of the previous speaker into the Journal as my own. There are bits and pieces I don't agree with, but the basic sentiment is that this does penalize those on West Oahu the most."

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

"Yes, Mr. Speaker. I wish to speak in favor of this program. This bill will provide \$4 billion for our Highway Fund over a period of 6 years. In the history of Hawaii, there's been no such infusion for highway funds that I can recall. Ironically, for those living in the West Side who oppose the bill, at least for some of them, most of the money, the \$4 billion, is going to the West Side, to provide improvements to their respective highways. Now we've got to understand, with the highways, there's no 'free lunch'. If we want better highways, we have always paid for it. That's the highway tax.

"Now because the project is on a much larger scale, and to the Governor's credit, she is willing to look at increasing taxes to pay for the highway improvements that we need. Our highways are falling apart. Just take a look at all the potholes that we have around. They need to be improved. We need new roads. The Neighbor Islands need new roads.

Maui needs new roads. Lahaina needs new roads. Where's the money going to come from? The stimulus package will provide some dollars, but certainly not enough to take care of the need for the whole State.

"Again Members, we represent the State of Hawaii. We need to remember this. We don't represent Wailuku, Maui, or Paia, Maui, Kauai, Mililani. You represent the State. And as we pass legislation, we pass legislation that's good for the State. If we're going to be provincial, Members, and only look at our particular area, nothing will ever get done on a statewide basis because, 'my area needs it more than yours.'

"So Members please, when you look at the different issues that come here, look at it on a broad basis. You are representatives of the people. Thank you, very much."

Representative Cabanilla rose to respond, stating:

"Just a quick rebuttal, Mr. Speaker. I do agree that Stand. Com. 895 does increase taxes, but it has no comparison whatsoever with House Bill 139. There is no tolling provision in this bill. Thank you."

Representative Har rose to respond, stating:

"Thank you, Mr. Speaker. If I could give just a brief rebuttal to the Chair of Transportation. I appreciate the comments regarding the provincially of some of my words. However, if that is so in fact the case, then we need to be consistent across the board, meaning in all of our bills, if we're going to look at only one area, then we shouldn't be taking out language in other bills that would only impact certain residents of certain sides.

"Essentially some of us are put in the position to have to defend, and be provincial, and represent our constituents because other Members of this Body have in fact taken out language, and it's not even across the board. It's not even-handed. Thank you, Mr. Speaker."

Representative Pine rose and asked that the Clerk record a no vote for her, and the Chair "so ordered."

Representative Finnegan rose respond, stating:

"Mr. Speaker, still with reservations, and I have a new point. I wanted to make sure that we're going to see this again, and that's one of the reasons why I'm not going to vote no on this bill right now, because I think that this needs further discussion.

"However, I did want to talk about one particular issue: that people who live farther away from the urban core pay more in taxes. That's how our gas tax is set up right now. It's per gallon and it's based on a certain amount of cents per gallon, so if you drive more, you pay more. That's the system that we have in place. One of the other things that I learned over the past week in regards to the pilot project of the miles traveled is, that would be the basis of how you would pay for this new pilot program. If you discover how many miles traveled, then you would be paying per mile, which is the same way that we're doing it right now on our gas taxes.

"I just wanted to make that clarification. Whether or not, when you compare the two, if it's a tax increase, that is up for fair discussion. But I must add that that is how we do it currently.

"Mr. Speaker, another huge thing is when we stopped, when we all started to pull back on driving, when the gas prices were really high, the State Highway Fund was not getting it's funding. And therefore our projects aren't being able to be completed, or being able to be done. One thing that I would say is, with all of the things that we're doing for electric vehicles, wanting to do renewable energy and all of these things, if we do it on a State fuel tax, I think it was a good idea to see if there was another mechanism that we could put into place, because as we look at electric cars and not having a fuel tax, how are we going to build our roads, because that Fund is no longer going to get funded. And then people who own electric vehicles versus people who can't afford electric vehicles and are still moving along with their gas vehicles, because they can't afford buying

a new car, will be paying a disproportionate share of highway improvements.

"So this whole thing I think needs more discussion. Again I repeat, I'm not for increasing taxes. I think that there's some merit to switching over the way that the taxes work."

Representative Evans rose to speak in support of the measure, stating:

"Mr. Speaker, I stand in support. Mr. Speaker, when I look at this bill, I'm struck by how they were trying to go to each island and identify the needs of each island, specific projects, and specific safety projects. And I agree with the Chair of Transportation that what's happened in Hawaii is that we've got many roads and bridges and guardrails and our highways are getting old. We have to work on them.

"As a Representative from the Big Island, we drive many, many miles, all of us, to get anywhere. In my community, if I want to go to a public library, I have to drive 25 miles. And our children, to go to high school have to be on the road and go 25 miles. And I know it's been a real struggle for the Department of Education in terms of bus transportation, but I have to tell you, this idea of raising taxes, I think is a reasonable one, and I'll tell you why.

"We all have to share in this together. And I would say that for the Big Island Representatives, on the Big Island we've got 173,000 people and, I can't remember how many miles and miles of road. But we've got the most miles of roads that you can imagine, on the Big Island. And many of us have always felt that Oahu, and we thank Oahu, all the people that live here, because in some ways we benefit from the taxes they pay, because we don't have the population. The population is here on Oahu. So what's happened over time is, we've all been in it together when it comes to the roads.

"And I was surprised today actually. I thought some people would stand up and say they had reservations because we didn't raise enough taxes for roads. There's a whole group of people out there that want us to raise a lot of taxes on gas, because they want us to get off gas. They want us to go electric. They want us to look for alternatives. And many people believe, to motivate policy when it affects all people, sometimes you have to make that leap, the leap being raise taxes hugely, so people start thinking about the alternative energy. So that didn't come up today, which, I'm surprised, I thought it might have come up. So Mr. Speaker, I support this bill. Thank you."

Representative Awana rose in support of the measure and asked that her written remarks, and the remarks of Representative Souki be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative Awana's written remarks are as follows:

"Mr. Speaker, I stand in support. I am in support of this measure which calls for a six-year Transportation Modernization Program. This comprehensive approach will address the deteriorating condition of our roadways and the congestion that commuters are forced to endure. Jobs will be created in the area of construction at a time when employment is scarce.

"In particular I appreciate the funding mechanism which calls for everyone to contribute – *kamaaina* and visitors alike. The special fund for this endeavor has been added for transparency. Monies generated by the program could be easily monitored and tracked. In addition, a protection clause has been added to prohibit the use of these revenues for the sole purpose of the modernization projects. Thank you, Mr. Speaker."

Representative Bertram rose in support of the measure and asked that the remarks of Representatives Souki and Evans be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Pine rose to speak in opposition to the measure, stating:

"I was going to submit written comments, but I just can't help myself. In opposition. Now is not the time to raise a lot of taxes. Or for me, no

taxes, period. When we raise taxes on your constituents, you make life even harder for them. Especially someone in their family who lost their job, or they got a pay cut, or they have new expenses because the medical expenses have gone up. Supplies are getting more expensive.

"Of course the people of the Leeward Coast want these roads. We don't believe we have enough of them. But just this last election, the people of Oahu, at least, decided to vote for rail. They approved of the tax increase for rail. Half the people in my district are considered to be living below poverty. Of course they want traffic relief, and they believe at least they're going to get it through rail.

"Now we're talking about increasing taxes on just about everything, because I understand the budget is the way it is. Well, we're going to add this too, because there's no longer a trigger in this anymore. It happens very soon. And so with the economy the way it is now, we're going to hurt business, especially those that have to transport things around the island. We're going to hurt families that are just getting by. We're going to have them perhaps, move out of their homes and move in with family, lose their homes, because things are just getting too expensive.

"So yes, everyone on the Leeward Coast, we love these things. But as the Representative from Kapolei said, a lot of us move out there because we can't move closer. So we are amongst the lower income population, at least on Oahu."

Representative Ching rose in opposition to the measure and asked that the remarks of Representative Pine be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1167, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAYS," passed Third Reading by a vote of 39 ayes to 11 noes, with Representatives Berg, Brower, Ching, Coffman, Har, Manahan, Marumoto, Pine, Thielen, Ward and Wooley voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 896) recommending that H.B. No. 1362, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1362, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, with reservations on this bill. Mr. Speaker, this establishes a Genetic Counseling Licensure Program within DCCA, requires licensure in order to use the title of licensed genetic counselor, and provides exemptions from licensure requirements.

"I just wanted to bring up one thing, and that is that we should read the Auditor's report. There was an October 2006 sunrise report done, when the Auditor determined that little evidence of consumer harm existed in Hawaii relating to genetic counselors, and that regulation is not warranted, nor should legislation be enacted to license genetic counselors. I just wanted to bring up the Auditor's report. 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. 1362, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GENETIC COUNSELORS," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Marumoto voting no, and with Representative Takai being excused.

At 4:05 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1037, HD 2  
H.B. No. 1163, HD 2  
H.B. No. 1168, HD 2  
H.B. No. 1518, HD 1

H.B. No. 1592, HD 1  
 H.B. No. 1167, HD 2  
 H.B. No. 1362, HD 1

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 901) recommending that H.B. No. 447, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 447, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Belatti rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Belatti's written remarks are as follows:

"Mr. Speaker, I rise in support of HB 447, HD 1. This amended bill is the product of collaboration among stakeholders in the check cashing industry: check cashing businesses, asset-building coalitions, and low- and moderate-income family service providers. HB 447, HD 1 makes two simple but important changes that will protect consumers and ensure more judicious use of payday lending services. The first change is the addition of the requirement that check cashers clearly disclose their rates and fees to their customers. The second change is the provision for payment plans for consumers who find themselves unable to fully repay their payday loans on time. Because these represent changes that ensure better education of and wiser use of payday lending by the consumer, I support this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 447, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PAYDAY LENDING," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 905) recommending that H.B. No. 317, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 317, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I just rise with reservations. I don't understand why it's under DLNR. 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. 317, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOBILE MEDICAL CARE," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 906) recommending that H.B. No. 1782, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1782, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Karamatsu rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Karamatsu's written remarks are as follows:

"I rise in support of House Bill 1782, House Draft 2, Relating to Health Information Exchange. Mr. Speaker, we live in the digital age. Technology has provided us with so many opportunities to better our knowledge, services that we provide, and even time management.

Likewise, technology has the ability to help us improve the quality and access to Hawaii's healthcare. By establishing a statewide health information technology system, we will be giving physicians tools such as immediate electronic access to patient medical records, which will allow them to read a patient's full medical history, including medications, lab reports, and other relevant medical information that will ultimately lower the rate of medical errors and result in better patient care.

"Both former President George W. Bush and President Barack Obama have publicly stated that every state needs to have a health information technology system by 2014. The growing importance of health information technology is even evidenced in the 2004 creation of the Office of National Coordinator for Health Information Technology within the U.S. Department of Health and Human Services.

"Earlier this month President Obama appointed Vivek Kundra to be the Federal Chief Information Officer (CIO) for the United States of America. Mr. Kundra was named by InfoWorld as one of the top 25 Chief Technology Officer (CTO) and was the 2008 Information Technology Executive of the Year. In his role as the Federal CIO, Mr. Kundra hopes to change the federal government's use of information technology by adopting consumer technology and ensuring that government data is open and accessible, while finding a balance of openness and accessibility with information security.

"By establishing an Office of National Coordinator for Health Information Technology and a Federal CIO to take a role in the development and implementation of health information technology, the federal government is demonstrating their commitment to improving our country's healthcare system.

"Furthermore, the American Recovery and Reinvestment Act of 2009 appropriated \$35 billion for information technology, \$20 billion of which is dedicated to health information technology alone. With the upcoming availability of the federal economic stimulus funds for health information technology, it would be in our best interest to take advantage of these funds to implement a program that the federal government has mandated us to be on within the next five years.

"Because of the 2014 deadline and the availability of the federal economic stimulus monies for health information technology beginning in 2011, it is even more critical that we take action to implement a health information technology system now. By taking action on this measure and moving health information technology forward, we will be able to take advantage of a ten to one federal dollar match. There is no better time to do this.

"The private sector has already begun to make strides in the field of health information technology. But in order to take advantage of these federal funds they will need the collaborative partnership of the State. Introduction of this bill has begun to bring the public and private sector stakeholders together to further the dialogue on this new area of partnership and the commitment from all parties is strong.

"Health information technology is an essential component to quality healthcare. Passage of this measure will be one of the most important actions that we as a legislature take this year because we will be making new strides in healthcare, creating new jobs, and bringing in new federal funds.

"The private sector and the federal government have recognized the value in health information technology. It is time that we do too. Together, in a collaborative partnership with the federal government and the private sector we can make the bold step of modernizing our healthcare system.

"I want to thank all of the involved State agencies and private sector partners for their enthusiasm and commitment to making health information a reality in Hawaii and for their continued partnership as this bill moves forward. Thank you."

Representative Belatti rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Belatti's written remarks are as follows:

"Mr. Speaker, I rise in support of HB 1782, HD 2. Sharing health data through modern information technology has the potential to improve the quality and delivery of health care for all of Hawaii's residents. It is imperative that the State explore innovative solutions for meeting citizen's health and health needs that seek to address the ever escalating costs of health care. A State health information exchange is a progressive approach to lowering administrative costs, improving preventive services, reducing medical errors and redundancies, and increasing access to affordable care. I support HB 1782, HD 2 with the purpose that its passage will continue discussion on best practices for the development of a State health information exchange."

Representative Finnegan rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1782, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH INFORMATION EXCHANGE," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 907) recommending that H.B. No. 1617, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1617, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII AT HILO," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 910) recommending that H.B. No. 111, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 111, pass Third Reading, seconded by Representative Evans.

Representative Pine rose to speak in opposition to the measure, stating:

"Yes, in opposition Mr. Speaker. I rise in opposition to House Bill 111, Relating to State Salaries. Basically what this bill does is, it establishes a two-year statute of limitation for employees in debt to the State through the withholdings of their State salary. Providing something like this sounds like a reasonable thing, but the problem that I have with this bill is very different.

"This bill makes no clear exception for fraud. So if someone frauds the State, this unfortunately, if it's discovered just after that two year period, we won't be able to recover the monies lost from that particular situation. Two years may also be a little too short. I think three is a little better for the salaries, but my biggest concern is the fraud area."

Representative Rhoads rose to speak in support of the measure, stating:

"Mr. Speaker, in support. Fraud is actually a crime, and crime has a different statute of limitations. I don't believe it is two years. All this does it make it exactly the same for the individual as it is for the State. Both parties have two years to make any claim. But the fraud issue, I don't recall it being raised in Committee. My recollection is, it's a crime, and it has a different statute of limitations. It's just apples and oranges. Mahalo."

Representative Finnegan rose to speak in opposition to the measure, stating:

"Mr. Speaker, my opposition to this bill is because of the fraud part of it also. I don't think we should reward people that way. I believe that it is covered in here, at least that was the testimony that was given in the Labor Committee through DAGS. 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. 111, entitled: "A BILL FOR AN ACT RELATING TO STATE SALARIES," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Finnegan, Marumoto and Pine voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 913) recommending that H.B. No. 643, HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 643, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. With reservations. And Mr. Speaker, I may have a potential conflict. I have contractors in my family," and the Chair ruled, "no conflict."

Representative Thielen continued, stating:

"Thank you. Mr. Speaker, I'm voting with reservations, because actually, what this does is, it requires a contractor to perform immigration functions that should be performed by the federal government. If contractors follow the I-9 requirements when they hire, then that's all they should have to do. They shouldn't have to then step into the role of a federal immigration officer. Thank you."

Representative Har rose to disclose a potential conflict of interest, stating:

"Mr. Speaker, can I please get a ruling on a potential conflict. At my law firm, I represent contractors. Thank you," and the Chair ruled, "no conflict."

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

"Thank you, Mr. Speaker. With reservations. My reservation is, I guess it's really difficult to determine whether or not someone is a citizen or not. I guess, because of the fraud, because of other things, it makes it very difficult, so I just have some concerns about that. Thank you."

Representative B. Oshiro rose to speak in support of the measure, stating:

"Mr. Speaker, I rise in support. Very briefly, the federal government has supplied many employers with what's called 'e-verify'. It's actually an electronic system where you just enter in some numbers, some names, and you verify whether the person is legally a resident of our country. And it's as simple as that.

"The other thing about the bill is, it only prevents or causes a sanction if it's knowing or intentional employment of the person. So you actually have to have gone through it, and known that they were illegal and did it anyway. And so, unless you're talking about those limited circumstances, I'm not really too worried about some of the concerns brought up by the other side. 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. 643, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CONTRACTORS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

At 4:11 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 447, HD 1  
H.B. No. 317, HD 1  
H.B. No. 1782, HD 2

H.B. No. 1617, HD 1  
H.B. No. 111  
H.B. No. 643, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 914) recommending that H.B. No. 358, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 358, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Cabanilla rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Cabanilla's written remarks are as follows:

"As a nurse, I can see first-hand that the drug and alcohol abuse epidemic proliferates in our society. I feel that we need consider all options for treatment. Hawaii has a severe lack of in-patient drug treatment facilities. For many drug users, outpatient treatment isn't comprehensive enough.

"This bill is not asking for additional funding, only creative allocation of existing funds already appropriated for drug abuse treatment.

"For the heavily addicted individuals with criminal tendencies, this is also a great sentencing option so they can be isolated from society thereby keeping our constituents safe and simultaneously receive treatment.

"Its also a great option for those who failed drug treatment several times and need to be away from their drug deals and other stimulant to drug use."

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

"Thank you, Mr. Speaker. I rise with reservations. I was reading this bill, and it sounds very similar to Drug Court, Mr. Speaker. So I was just making sure that as we move forward, that we try not to do any duplication. 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. 358, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DRUG TREATMENT," passed Third Reading by a vote of 48 ayes, with Representatives Carroll, McKelvey and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 915) recommending that H.B. No. 519, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 519, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Yes, Mr. Speaker. I want to speak in favor of this measure. It's very long overdue. And I want to give my congratulations for the good work that the Chair of Public Safety has done. And even more so, Mr. Speaker and Members, if I can just deviate just a little bit, what makes it impressive is that the Chair of Public Safety was in Corrections. She dealt with incarceration. But all of her time has been spent as a Chair looking for rehabilitation of the inmates. And for that, I give plenty aloha to the Chair for the good work that she's done. Thank you, very much."

Representative Ching rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. In all due respect, I rise in opposition. The measure would require the return of all out-of-state inmates in private prisons by December 31, 2015. Now first, many prisoners may not want to return to Hawaii's prison. In fact, many may prefer to stay housed on

mainland prisons, as they offer educational and vocational programs not available in our prisons.

"The passage of this measure would require that Public Safety Department plan, design, construct sufficient facilities to house inmates by 2015. Mr. Speaker, taking into consideration the high cost of living, the high cost of property and real estate, here in Hawaii. Would you really want a prison facility built in your back yard? Do you really want that? Do tourists want to see prisons here in beautiful Hawaii? I'm quite certain that your constituents would probably, as mine have expressed, do not want it in my own back yard.

"It's simply not be prudent knowing how land in Hawaii ranges in the hundreds of thousands of dollars more than on the spacious and spacious land-abundant mainland. They have cheap land in isolated areas in which to build. We in Hawaii do not.

"So finally Mr. Speaker, this measure also requires the Public Safety Department to provide a report to the Legislature at the end of each calendar year on any of the inmates not returned with an explanation of reasoning and circumstances for noncompliance. This simply is also not cost effective. It's not a good idea at this time in such budget fiscal crisis. The Department is already understaffed as it is and requiring them to submit this annual report would be very time consuming and labor intensive. It's not practical. It's not feasible. And it's simply not cost effective.

"Mr. Speaker, I think that when we focus on the fact that our main industry is tourism; not oil, not other things. We have to reconsider this measure. Thank you."

Representative Herkes rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. In support. I just wonder how many of you know that that high-rise building just Ewa of the Airport is a prison. Thank you."

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

"Just in support with reservations, and I would love to use the words of the Representative from Liliha as my own," and the Chair "so ordered." (By reference only.)

Representative Bertram rose to speak in support of the measure, stating:

"I'm in strong support and would like the words of the speaker from Wailuku incorporated as well. I'd also just a few quick comments in the sense that, we have to do something to bring these folks back. I think what the intent of Public Safety was that it won't be just prisons that we'd be bringing them back to. There will be programs, and I think you've seen other bills that have been forwarded, that do exactly that, to start putting in a whole different way of handling low-level offenders. 60% of the men and 80% of the women in prison are for low-level, nonviolent drug offenses. So we really need to rethink this whole thing.

"Really, when we're talking about cost and expense, the Pew Center report that you just got, everybody got a copy of it, specifies the tremendous amount of money that we're wasting, without any good result in our current prison system. We have to move to a whole new system where we actually treat people in their homes, in their communities, and deal with them there rather than putting them into prisons. Thank you."

Representative Keith-Agaran rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I rise to speak to in support of HB 519, HD 1.

"We spend \$50 million of Hawaii taxpayer money annually on out-of-state prisons. This annual cost is expected to increase an additional \$13

million of Hawaii taxpayer money after July 1, 2009, in which we will be spending \$100 million or more of Hawaii taxpayer money by 2015 to other states.

"While this measure does not directly assist Hawaii's current budget crisis, it can in the future be one way of ending the loss of Hawaii taxpayer money to other states. More importantly, this bill sets a policy that we will invest by a time certain that money here at home in jobs and services for our own residents. We should build the needed facilities at home which will result in spending our money locally for our contractors and our workers to construct these facilities. We can then staff these facilities with local people and contract with local businesses to provide supplies and programs. We cannot afford to continue a \$50 million drain of our general tax revenues each year to benefit other states without some end in sight.

"The Department of Public Safety is currently exploring plans to build a new and larger prison here in Hawai'i together with the Department of Accounting and General Services and several private entities under contract. That's great. This bill simply places a date and deadline for the Administration to get moving which is never a bad idea.

"I urge my colleagues to vote in favor of the bill."

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

"Thank you, Mr. Speaker. I have reservations and just short comments. Mr. Speaker, this requires the Public Safety Department to plan, design and construct sufficient facilities to house inmates in Hawaii by 12/31/2015. That's a very short time, and we don't have the money. Throughout the debate, and throughout the years, there has been the question of where we going to put it.

"This is a very short time frame to do what it wants to set out to do, and I just don't know, where we are going to get the money to do this. Mr. Speaker, I have a lot more comments, but I figured, like all the rest of the bills, we should continue to debate it. 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. 519, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INMATES," passed Third Reading by a vote of 46 ayes to 2 noes, with Representatives Ching and Thielen voting no, and with Representative Carroll, McKelvey and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 918) recommending that H.B. No. 987, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 987, HD 2, entitled: "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT," passed Third Reading by a vote of 48 ayes, with Representatives Carroll, McKelvey and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 923) recommending that H.B. No. 1145, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1145, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REMNANT LANDS," passed Third Reading by a vote of 48 ayes, with Representatives Carroll, McKelvey and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 924) recommending that H.B. No. 1712, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1712, HD 2, pass Third Reading, seconded by Representative Evans.

Representative C. Lee rose in opposition to the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative C. Lee's written remarks are as follows:

"While the intent of this bill is good, "to ensure that rules regarding the taking and protection of *uhu*, *weke/moana kali*, and *uluu/papio* are based on supporting data," I rise in opposition to it. I believe the content of the bill is contrary to its purpose, and would serve to only harm, rather than help, the proper management of these declining marine resources.

"As noted in its Committee Report, the House Water, Land and Ocean Resources Committee "stresses that when regulating marine life, DLNR should not base their rules solely on information gathered at public information meetings, but on all information available, including affirmatively obtaining data supporting the finding that take rules are necessary."

"Fortunately, much of the data this bill requires DLNR to gather already exists. In fact, it is more comprehensive and in depth in many respects than the research this bill calls for. One such study was published just this past year, conducted by:

*The Hawaii Cooperative Fishery Research Unit, Department of Zoology, University of Hawaii at Manoa  
Hawaii Division of Aquatic Resources, Honokohau Marina, Kailua-Kona  
Joint Institute for Marine and Atmospheric Research (JIMAR), University of Hawaii  
Coral Reef Ecosystems Division (CRED) NOAA, National Marine Fisheries Service  
NOAA/NOS/NCCOS/CCMA- Biogeography Branch  
The Oceanic Institute, Makapuu Point*

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**Assessing the importance of fishing impacts on Hawaiian coral reef fish assemblages along regional-scale human population gradients**  
I. D. WILLIAMS<sup>1,2</sup> \*, W. J. WALSH<sup>2</sup>, R. E. SCHROEDER<sup>3</sup>, A. M. FRIEDLANDER<sup>4</sup>, B. L. RICHARDS<sup>3</sup> AND K. A. STAMOULIS<sup>2</sup>

This study surveyed 89 separate marine areas to reach its conclusion:

"The availability of a large research vessel to use as a platform for survey cruises made it possible to reach remote and inaccessible parts of Hawaii which have rarely if ever been surveyed until now, and therefore enabled the largest-scale assessment of MHI coral reef fish stocks to date. Our data set provides clear evidence that stocks of target and vulnerable taxa are severely depleted around accessible and populous locations in the MHI, and a number of lines of evidence indicate that fishing is the prime cause."

"Though this and similar studies conclude that fishing has a real impact on the decline of these fish species, the monitoring called for in this bill takes into account the "effects that runoff, sedimentation, pollution, lack or profusion of fresh water intrusion into the marine ecosystem, and the introduction of invasive species have on the ecosystem that affects the habitat and forage of *uhu*, *weke/moana kali*, and *uluu/papio*" but does not account for the effects of fishing at all.

"House Bill 1712 goes on to state that DLNR has not "properly managed or enhanced fisheries for long-term sustainability of the resources; protected and restored the aquatic environment; protected native and resident aquatic species and their habitat; or provided facilities and opportunities for recreational fishing."

"If DLNR has not been able to follow through with proper management of these species, and if the best available data shows that "fishing is the prime cause" for their depletion, then DLNR must take swift action based on best science to protect the species and promote future recreational fishing.

"However, creating additional requirements for further study and monitoring stretches the resources of the DLNR at a time when resources are already short, and adds additional hurdles to effective resource management, without producing useful conclusions that haven't already been reached. After years of input from all sides, we need action to save what is left of these species in the main Hawaiian Islands. We can wait no longer."

Representative Thielen rose in opposition to the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Thielen's written remarks are as follows:

"Mr. Speaker, I rise in opposition to HB 1712 HD 2, relating to fishing.

"This bill directs the Department of Land and Natural Resources to:

- (1) Continue to hold public informational meetings to hear concerns and suggestions from the public regarding the taking and protection of uhu, weke/moana kali, and ulua/papio;
- (2) Use and present all available data to support the basis for any rule proposed based on the public input, and if no data is available, use all available means to gather the necessary data;
- (3) Develop a monitoring and evaluation program to determine the effects that runoff, sedimentation, pollution, lack or profusion of fresh water intrusion into the marine ecosystem that affects the habitat and forage of these fish; and
- (4) Develop a monitoring and evaluation program to determine the outcomes to be achieved by the implementation of any proposed rule and estimate the timeframes through which the outcomes will be achieved.

"This bill is very similar to measures that failed to pass the Legislature in 2006 and 2007. It puts too many constraints on the management of marine fisheries resources, and requires scientific justifications so restrictive, it would effectively place a moratorium on any management actions for the better part of a decade.

"In short, this bill is so restrictive it would inhibit rather than enhance sound resource management.

"For these reasons, I am opposed to HB 1712 HD 2, relating to fishing."

Representative Finnegan rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Belatti rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Pine rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Keith-Agaran rose in support of the measure with reservations and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I rise to speak to express my continued reservations with HB 1712, HD 2, Relating to fishing.

"This bill imposes constraints on the Department of Land and Natural Resources' management of marine fisheries resources, such as requiring "scientific" justifications so restrictive that it would be difficult, if not impossible to meet. The precautionary doctrine suggests that the stewards of these Public Trust resources should manage our fisheries with sustainability in mind. With the State facing budget challenges, I'm concerned about further impairing DLNR's ability to protect our nearshore stocks.

"The most recent data from scientific surveys in the Main Hawaiian Islands indicates that human impacts are a primary cause of impaired fisheries. See Williams, I. D., et al (2008) *Environmental Conservatism: Assessing the Importance of Fishing Impacts on Hawaiian Coral Reef Fish Assemblages Along Regional-Scale Human Population Gradients*: 261, 270, 271.

"The proponents of bill must agree with Williams and other scientists that "an essential first step towards developing effective management responses is to determine the importance of the various factors contributing to degradation in any particular situation. In particular, it is likely to be difficult to build support for appropriate remedial action if it is not possible to reach a consensus on the underlying cause(s) of resource declines. . . ." The anecdotal information provided by fisherman is particularly useful to perhaps explain problems with what the plain data indicates. In the Williams study, "it did not seem that proximity to high human population density was by itself associated with fish population declines, but rather that the crucial factor was proximity to human populations who were able to readily access, and therefore fish, nearshore waters." But William must conclude, based on the information collected, that "[his] data set provides clear evidence that stocks of target and vulnerable taxa are severely depleted around accessible and populous locations in the MHI, and a number of lines of evidence indicate that fishing is the prime cause."

"With this up-to-date data and information in-hand, DLNR can properly assess the received wisdom of the fishers and other users of the nearshore Main Hawaiian Islands to assist in fashioning the best management practices that will benefit all our people. I can understand and recognize the frustration and perception of water people and fishers who believe the DLNR aquatic biologists are ignoring their experience and knowledge. I think fishers can contribute great value to proper management of our resources.

"But when we are striving for sustainability, I would suggest that leaning on the conservative end may be the best policy rather than continuing unregulated takes. Supporting data, including stock assessments to be conducted for the identified species are lengthy projects, in which these species range across both the Main Hawaiian Islands and the Northwest Hawaiian Islands. It takes years of field research and hundreds of thousands of dollars for each species involved and will effectively place a moratorium on any management actions related to marine fish stocks for the better part of the next several decades. As the proverb states, the medicine prescribed for the patient's ailments may be worse than the cure.

"Please record my vote with reservations."

Representative Wooley rose in support of the measure with reservations and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Wooley's written remarks are as follows:

"I support the intent of this bill, which will require that more effort be expended by the Department of Land and Natural Resources to monitor, understand and work with fisherman to determine appropriate fishing levels and limits. However, it is not clear that the Department will be able to meet this mandate, and our fishery resources may suffer significantly as a result.

"Our local fishermen need support, and our fishery resources need protection. This bill may not help either, despite its intent. For this reason, I am voting for this bill with serious reservations."

Representative Shimabukuro rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Ito rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Ito's written remarks are as follows:

"Mr. Speaker, I rise in support of Stand. Com. Report No. 924, H.B. 1712, H.D. 2.

"Mr. Speaker, some have stated that this is a fishing rights bill. It is far from it. There is nothing in this measure that states that the Department of Land and Natural Resources shall not proceed with establishing rules to regulate the taking of the parrotfish (*uhu*), the goatfish (*weke/moana kali*) and the jacks (*ulua/papio*). All this measure does is state that if the DLNR is to establish rules it should be done in a responsible manner.

"Mr. Speaker, testimony has been submitted stating: "The current measure would impose constraints on the management of marine fisheries resources, such as requiring scientific justifications so restrictive that they would be difficult if not impossible to meet." Nowhere in this measure does it require scientific justification to establish rules.

"The testifier further states: "The mandated process of administrative rulemaking takes into consideration the impacts of each proposal on resources, businesses, and the public, and includes opportunities provided by law for interested parties to provide their comments. Therefore this measure would to some extent re-create existing protocols. Relative to any rule achieving its intended purpose, requiring reports in the manner proposed would do no more than what is already being done, and would therefore result in duplicative effort and thereby detract from the Department's overall efficiency and productivity." This measure only reinforces existing protocol.

"This measure states in Section 2: "The department of land and natural resources shall continue to hold public informational meetings to hear the concerns and suggestions from the public regarding the taking and protection of Uhu, Weke/Moana Kali, and Ulua/Papio."

"Further, this measure does not require any reports from the department. However, it does require the DLNR to develop a monitoring and evaluation program as stated in Section 2: "The department of land and natural resources shall:

1. Develop a monitoring and evaluation program to determine the effects that runoff, sedimentation, pollution, lack or profusion of fresh water intrusion into the marine ecosystem, and the introduction of invasive species have on the ecosystem that affects the habitat and forage of Uhu, Weke/Moana Kali, and Ulua/Papio; and
2. Develop a monitoring and evaluation program to determine the outcomes to be achieved by the implementation of any proposed rule and estimate the timeframes through which the outcomes will be achieved."

"Mr. Speaker, this measure only reinforces what is required of DLNR as stated in statutes. HRS Section 187A-2 "Powers and duties of department" states in subsection (6): "The department shall – Gather and compile information and statistics concerning the habitat and character of, and increase and decrease in, aquatic resources in the State, including the care and propagation of aquatic resources for protective, productive, and aesthetic purposes, and other useful information, which the department deems proper." Section 2 of this measure states: "The department of land and natural resources shall use and present all available data to support the basis for any rule proposed based on the public input, and if no data is available, use all available means to gather the necessary information."

"The question then arises, "Does DLNR have the available information and statistics concerning the increase/decrease of Uhu, Weke/Moana Kali, and Ulua/Papio to support the basis for any rules? If this information and statistics are not presently available will the DLNR proceed with gathering and compiling this information and statistics? If not, why not?"

"Mr. Speaker, another testifier stated: "There is already clear and abundant scientific data, analysis and evidence being utilized by the DLNR that points to serious declines in near-shore fish populations, especially among the large fishes that are so important for replenishing the reef." The question then arises, "If the DLNR has in its possession the

forementioned information has the DLNR made this information available to the public? If not, why not?"

"Mr. Speaker, I have always stated that any rule making to regulate Hawaii's marine resources should be done by the Department of Land and Natural Resources without any interference from any outside agency. This measure does not interfere with that process. All this measure does is to require the DLNR to establish rules to regulate the taking of Uhu/Weke/Moana Kali, and Ulua/Papio in a responsible manner. At no time should the DLNR establish any rules based solely on information and suggestions gathered at public informational meetings. I too want regulations to conserve Hawaii's marine resources so my grandchildren and generations to come can enjoy what I have enjoyed; that is to be able to go fishing anywhere in the State and to be able to partake ocean resources taken from Hawaii's waters. However, I do want regulations that are established in a responsible manner.

"Mr. Speaker, I urge all my colleagues to vote 'yes' on Stand. Com. Report No. 924, HB1712, HD2."

Representative Sagum rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Sagum's written remarks are as follows:

"Mr. Speaker, I rise in support of HB 1712, HD2—Relating to Fishing

"The fishermen of Hawaii are the only providers of food from our ocean. In tough economic times, the people of an island state turn to its natural resources, the land and the ocean, for sustenance and subsistence. With a population of over a million people, the management of our resources is critical. Faced with challenging impact on the resources including reef decay—caused by siltation, runoff, pollution and other non-point source impacts, overuse and invasive species, the Department should take a proactive and serious approach to determine the true condition of the resource.

"With an estimated population of up to 800,000 people in the late 1700s, the native Hawaiians were fully dependent on natural resources and used temporal and seasonal restrictions to manage the islands' fisheries and create a delicate balance between conservation and use.

"Today, by statute, the Department of Land and Natural Resources is tasked with managing the state's waters from the shoreline out to three miles, and balancing conservation with use. In recent years, the Department has created many new regulations including permanent area closures, community-based managed areas, bag and size limits and further restricted gear type—basing their decisions on "some" science and a heavy amount of public opinion. In keeping with its mission to "manage or enhance fisheries for long-term sustainability of the resources," it is imperative that the Department utilize their biologists to take an actual assessment of the current condition of the marine resources and focus on gathering data and statistics instead of relying primarily on surveys and opinion polls. This would be the only way to properly and responsibly manage the resource and comply with Chapter 187A-2, Hawaii Revised Statutes, which requires the Department to:

- (1) Manage and administer the aquatic life and aquatic resources of the State;
- (2) Establish, manage, and regulate public fishing areas, artificial reefs, fish aggregating devices, marine life conservation districts, shoreline fishery management areas, refuges, and other areas; and
- (3) Gather and compile information and statistics concerning the habitat and character of, and increase and decrease in, aquatic resources in the State, including the care and propagation of aquatic resources for protective, productive, and aesthetic purposes, and other useful information, which the department deems proper.

"By law, the Department should be doing its due diligence to determine the health of the resource and making recommendations to manage accordingly. Erring on the side of caution due to a lack of pertinent

information is easy and instinctive, but is an indication of poor management.

"Commercial fishermen have a long and reputable history of using and caring for the resource to ensure fish stocks and their livelihood will be there tomorrow. They have provided constant and invaluable contributions to our local economy and along with recreational fishermen, have fed our islanders for more than a century. Heavily regulated and licensed, commercial fishermen provide the Department with the only substantiated catch data for all local fish caught. In working on future management measures, it is my hope that the Department will consult the expert fishermen from Kauai and all other islands to gain a comprehensive understanding of the resource as they see it. As daily and responsible users of the resource, it would be unacceptable and irresponsible to regulate them based on opinions gathered from occasional recreational fishermen.

"Mr. Speaker, HB1712, HD2 also requires the Department to develop a monitoring and evaluation program to determine the effects that runoff, sedimentation, pollution, lack or profusion of fresh water intrusion into the marine ecosystem, and the introduction of invasive species have on the ecosystem that affects the habitat and forage of *uhu*, *weke/moana kali*, and *uluu/papio*.

"This provision places emphasis on the need to have the Department address the factors that contribute to habitat loss which is a primary cause for any possible decline in fish populations. HB1712, HD2, most importantly, mentions this important impact as one that should be addressed by monitoring.

"This holistic approach to resource management is a step in the right direction. With a monitoring and evaluation program, the fishermen of Kauai and the entire State will have a better understanding of the true condition of the habitat and can willingly and trustingly work towards management measures to provide for continued use of the resource.

"Most importantly, Mr. Speaker, this bill encourages the Department to work with the fishermen of Hawaii towards favorable outcomes, and not against them and I urge my colleagues who eat fish or have constituents who eat fish to support this measure. 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. 1712, HD 2, entitled: "A BILL FOR AN ACT RELATING TO FISHING," passed Third Reading by a vote of 39 ayes to 9 noes, with Representatives Berg, Hanohano, C. Lee, Marumoto, Morita, Pine, Saiki, Takumi and Thielen voting no, and with Representatives Carroll, McKelvey and Takai being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 925) recommending that H.B. No. 310, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 310, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Belatti rose in opposition to the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Belatti's written remarks are as follows:

"Mr. Speaker, I rise in strong opposition to HB 310, HD 2. The problem with this bill is that it seeks to impose an unreasonable "fix" to the Medical Claims Conciliation Panel (MCCP). The MCCP is intended to offer injured plaintiffs an inexpensive, expedited, informal forum to reconcile their complaints against health care defendants before any litigation begins. MCCP's decisions are advisory only. Sometimes the parties never reach a settlement. HB 310, HD 2 would convert this conciliatory process into a quasi-adjudicatory process, prompting the parties to focus entirely on positioning themselves in anticipation of litigation, thus undercutting the conciliatory purposes of the MCCP. This bill would further create additional expense and delay to the MCCP process. For these reasons, I oppose HB 310, HD 2."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 310, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL TORTS," passed Third Reading by a vote of 37 ayes to 11 noes, with Representatives Belatti, Berg, Hanohano, Keith-Agaran, C. Lee, Luke, Morita, Nishimoto, Rhoads, Saiki and Shimabukuro voting no, and with Representatives Carroll, McKelvey and Takai being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 926) recommending that H.B. No. 1636, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1636, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Rhoads rose to speak in opposition to the measure, stating:

"Mr. Speaker, in opposition. Because it's such a feel-good sounding bill, I figured I'd better explain why I was going to vote against this bill, Relating to Emergency Medical Physicians.

"The cost that the negligence already takes into account that, if you're a doctor in an emergency room, you're not expected to be superman or superwoman. You're expected to do what a reasonable person would do under those circumstances. And giving emergency medical personnel even more leeway is simply unnecessary. The common law as it stands allows for negligence, and you're put in the shoes of someone who, it's understood that it's a very difficult job that you have and that you'll be given a break legally as a result of that. So that's why I'm opposed to this. Mahalo."

Representative C. Lee rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1636, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY MEDICAL PHYSICIANS," passed Third Reading by a vote of 39 ayes to 9 noes, with Representatives Berg, Hanohano, Keith-Agaran, Luke, Morita, Nishimoto, Rhoads, Saiki and Shimabukuro voting no, and with Representatives Carroll, McKelvey and Takai being excused.

At 4:21 o'clock p.m. Representative Tsuji requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 4:26 o'clock p.m.

At 4:29 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 358, HD 1  
H.B. No. 519, HD 1  
H.B. No. 987, HD 2  
H.B. No. 1145, HD 1  
H.B. No. 1712, HD 2  
H.B. No. 310, HD 2  
H.B. No. 1636, HD 1

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 928) recommending that H.B. No. 1097, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1097, HD 1, pass Third Reading, seconded by Representative Evans.

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

ROUGH DRAFT

"Mr. Speaker, I rise in support of Standing Committee Report No. 928, House Bill 1097, House Draft 1. Mr. Speaker, I stand in support of this bill, and need to point out that this is the Governor's bill to address our budget shortfall. What it would do is change the Assistance for the Aged, Blind and Disabled Program into a block grant program. And I think members should understand the effect that this might have upon those who currently receive benefits from this entitlement program. And these are those aged, blind and permanently and totally disabled individuals.

"I had a chance to talk to the Chair of the Human Services Committee, and he did inform me that approximately 37,000 people today receive these benefits as an entitlement. I guess I need to stand today at this time Mr. Speaker just to let the Body know that we are only looking at these types of draconian, extreme measures to address the shortfall. I look at my notes here, and it says that the fiscal impact of about \$2.1 million in 2010, and \$2.1 million in 2011. That's a total of about \$4 million. But what it would do is basically reduce the monthly benefits from \$469 a month, to \$450 a month; and reduce the benefit payment amount from 50% to 40% of the federal poverty level. Again the point is that this radical change, or shift, would change the entitlement program for our most needy and vulnerable, to a block grant.

"If this was to occur Mr. Speaker, once the appropriation and the appropriated amount runs out, that's it. I just wanted to point that out for the Members. Thank you."

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

"Thank you, Mr. Speaker. I also have reservations, and I think that the number is actually 3,700 if I'm not mistaken. But that is still a huge number of people who would probably be put onto the beaches and the streets if their benefits were cut. So I also have reservations and would like to submit written comments."

Representative Shimabukuro's written remarks are as follows:

"I quote from The Legal Aid Society of Hawaii's testimony:

The Legal Aid Society of Hawaii hereby provides testimony in opposition to the House Committee on Human Services on HB1097 - Relating to Assistance for Aged, Blind, and Permanently and Totally Disabled Persons ("AABD"). While we understand the intent and need for this bill, we much prefer another solution that would preserve AABD as an entitlement program.

The Legal Aid Society of Hawaii provides free legal services to the low-income population of the State of Hawaii. We provided civil legal assistance to those in need through nine offices located in Lihue, Waianae, Honolulu, Kaneohe, Kaunakakai, Lanai City, Wailuku, Kona and Hilo. Over the years we have provided leadership around public benefits issues and on an annual basis update our public benefits manual and provide a two-day training on public benefits.

As written, this bill would convert AABD from an entitlement program to a block grant program.

#### AABD-GA PROBLEM

In Hawai'i there are two financial assistance programs for disabled individuals. Simply stated AABD is for those that are permanently disabled, but that don't qualify for Supplemental Social Security Income ("SSI") because of immigration status or other reasons and General Assistance ("GA") is for those who are either temporarily disabled or who may qualify for SSI.

Because the legislature has recognized an on-going need to support those who are permanently and totally disabled persons, AABD was established as an entitlement program. As such, the benefit level for AABD is set at the same rates as the TANF/TAONF programs. However, GA was created as a block grant program which means that benefit amounts are paid out based on the total allocation provided by the legislature.

Recognizing the need to disburse comparable benefits, over the years DHS has maintained the GA payment at the same rate as the AABD program even when the block grant allocated for GA would not support such levels. To do so, DHS would transfer funds from the AABD to the GA program. However, recently they've been advised that they cannot continue this practice as AABD is an entitlement and GA is blocked grant.

As such, in order to allow for continued transfers and to ensure on-going parity between these two populations, either AABD must be converted to a block grant program or GA must be converted to an entitlement program. This bill converts AABD to a block grant program.

#### AABD SHOULD NOT BE A BLOCK GRANT

While we understand the problem faced by DHS and the state, we do not think that the solution is in changing a program like AABD into a block grant. By changing AABD, we expose this most vulnerable population to fluctuation in benefits based on the availability of state funds and the numbers of individuals who qualify for the program. Our aged, blind, and permanently and totally disabled citizens do not deserve such fluctuation especially when they are living on a fixed income and are unable to work.

As such we oppose this bill and much prefer an option to convert the GA program into an entitlement program. We submit this solution as a part of our testimony on HB1098 - Relating to General Assistance.

Thank you for the opportunity to testify.

Sincerely,  
M. Nalani Fujimori  
Interim Executive Director"

Representative Ching rose in support of the measure with reservations and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in support however, with reservations of H.B. 1097- Relating to Assistance for Aged, Blind, and Permanently and Totally Disabled Persons. The proposed bill changes the State-funded Assistance for Aged, Blind and Permanently and Totally Disabled public assistance program from an entitlement program to a block grant program.

"The assistance amount would be based upon the amount appropriated by the Legislature and would not exceed 62.5% of the standard need. The proposed bill would inevitably expose the program to fluctuation in benefits based on state funds and numbers of qualifiers into the program.

"While I understand the need of the Department of Human Services and their position that allowing the Legislature greater flexibility to control the funding for this program could be beneficial to Aged and Disabled persons, we must be sure that we can improve the State's ability to track and reliably project costs for this program to ensure the protection and well-being of these individuals. Thank you."

Representative Belatti rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1097, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ASSISTANCE FOR AGED, BLIND, AND PERMANENTLY AND TOTALLY DISABLED PERSONS," passed Third Reading by a vote of 48 ayes to 1 no, with Representative Brower voting no, and with Representatives Nishimoto and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 929) recommending that H.B. No. 1666, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1666, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Ward rose and stated:

[*Speaking in a foreign language.*]

The Chair then stated:

"Representative Ward, you're out of order."

Representative Ward then stated:

"Exactly. It's a linguistic protocol that I'm speaking about, and I did it purposely, Mr. Speaker. In this bill, are we saying that Hawaiian is the primary language, and English the secondary? If so, we need to invert one of the clauses that says, 'On the top is the English. On the bottom is the Hawaiian,' whereas now, it's in the opposite. Thank you, and [*speaking in a foreign language*]."

Representative Shimabukuro rose to speak in support of the measure, stating:

"In support. I believe, in our State laws, the Hawaiian and English languages are both recognized as the official languages of our State. So, I think they're at least equal. Thank you."

Representative Awana rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. I stand in strong support, with regards to Stand. Comm. Report No. 929. In addition, I'd just like to mention that, if I'm not mistaken, the Hawaiian people were here before anyone else. Thank you."

Representative Carroll rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Carroll's written remarks are as follows:

"Thank you, Mr. Speaker. In strong support.

"I support SCR 929 HB 1666 HD1 because this bill will ensure the preservation and promotion of Native Hawaiian culture, history, and language as provided for in the Hawaii State Constitution by requiring that the accurate, appropriate, and authentic Hawaiian names and language, including proper Hawaiian spelling and punctuation with macrons and glottal stops be included on:

- (1) All letterheads prepared by or for State or County agencies or officials effective January 1, 2011, provided that any revision to conform any letterhead existing on or before January 1, 2011, to the requirements, may be implemented when the letterhead requires replacement or reprinting, or otherwise requires revision; and
- (2) All emblems and symbols representative of the State, its departments, agencies, and political subdivisions, effective January 1, 2011, provided that for existing symbols and emblems, conformance may be delayed until a replacement is required.

"Therefore, this bill will not cost the state anything more than making sure that the *okina* and *kahako* are in its appropriate place in the spelling of Hawaiian words.

"It is time to support the host culture. This legislation is long overdue. I urge my colleagues to please support this significant legislation."

Representative McKelvey rose to speak in support of the measure, stating:

"Thank you very much, Mr. Speaker. In strong support. And just for everyone, this would actually only take effect when the letterheads and

logos are being redesigned. So, I believe this will be a revenue neutral measure. 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. 1666, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN LANGUAGE," passed Third Reading by a vote of 49 ayes, with Representatives Nishimoto and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 931) recommending that H.B. No. 1271, HD 2, as amended in HD 3, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1271, HD 3, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. In support with reservations. Mr. Speaker, I am in support of parts I, II, and III of this measure, which increases the tax on a barrel of crude oil to support energy and food security issues. However, I do not support part IV of this bill, which suspends the ethanol blending mandate.

"First of all, I believe the tax increase on a barrel of oil can be well justified as a strategic, long-term investment for Hawaii's food and energy security to decrease pricing volatility, which destabilizes our Hawaii economy, and to lessen the risk of fuel and food supply disruption.

"The cost to Hawaii's residents is estimated to be minimal; as low as \$20 per person, per year, compared to the continued exportation of over \$2,000 per person, per year, out of Hawaii's economy, just to meet increased energy costs. This does not even include the amount of money exported out of the state for food.

"However, tying this tax increase to a supposed offset, by suspending the ethanol blending mandate is illogical for the following reasons, and without a full understanding of gasoline and ethanol pricing, and with this lack of understanding, it will increase the price of a gallon of gasoline.

"First of all, the ethanol blending mandate does not require ethanol to be blended if it's cost is greater than the wholesale rack price of gasoline. Second, the Legislature has no control over the price of gasoline, much less on the price of ethanol or crude oil. We should not be giving the public false expectations that the increase in a tax will be offset by lower gasoline prices, should we suspend ethanol blending.

"And third, I believe the Finance Committee members used crude oil and ethanol commodity prices in their assumptions. There's no statistically significant correlation between ethanol and crude oil prices. It's like comparing apples and oranges to relate ethanol prices, a finished product that has undergone significant transformation, to a raw material, crude oil, that has to undergo a significant manufacturing process to produce its finished products, which is gasoline and diesel, in this case.

"Wholesale ethanol, today is quoted at \$1.54 per gallon on the Chicago Board of Trade, for June 2009 delivery. Barge handling costs brings the delivery to Hawaii at a price of \$1.86.5 per gallon, before applying the federal tax credit of 45 cents per gallon, yielding a comparable net ethanol price of \$1.41.5 per gallon.

"Mr. Speaker, I will have more detail on how these costs are calculated. But, with crude oil at \$40 per barrel, and at close today, it was at \$45.71. So, with crude oil at \$40 per barrel, it equates to approximately \$76 per barrel in gasoline costs. Ethanol, at current prices, including the federal tax credit, equates to \$59.43 per barrel. So, again, this equates to a cost of 39.5 cents per gallon, a lower cost of ethanol, compared to gasoline.

"In the most recent energy information and administration price data for wholesale gasoline prices in Hawaii, and this is for December 20, '08, it showed a State average of \$1.55 per gallon of gasoline, which equates to

about \$68 per barrel. Since December crude prices have risen by approximately 14 percent from December lows, wholesale gasoline prices are likely to rise by a comparable percentage, to about \$77 per barrel.

"Additionally, ethanol is priced on a cost plus basis, not true market value. So, if it sells at a discounted price to its actual value as a fuel extender, and octane enhancer, ethanol's octane value is \$112 and a half, allowing a refiner to blow ..."

Representative Takumi rose to yield his time, and the Chair "so ordered."

Representative Morita continued, stating:

"Thank you. Thank you, Representative. Anyway, there's value in octane. So, ethanol's octane value wasn't apparently factored into the wholesale price, and it's estimated to be between 20 and 35 cents per gallon, which is equivalent to 2 cents to 3.5 cents per gallon of gasoline.

"But, most important, Mr. Speaker, the blending of ethanol in gasoline was studied extensively by this Body and the Administration prior to the promulgation of Rules for the mandate, including detailed studies by Stillwater Associates, BBI International, and Decision Analysis Hawaii. All these studies concluded that ethanol blending was likely to exert downward pressure on Hawaii gasoline prices.

"Part 4 of this bill is going to have a significant negative impact on businesses who have already invested substantial amounts to carry out the ethanol blending policy: The promotion of renewable energy, and our commitment of keeping agricultural lands in agricultural productions. For example, Pacific West Energy, LLC. is a company that is pursuing ethanol production in the State of Hawaii. They've invested over \$8 million to date in project development. The project has an air permit, and the project's projected budget is \$125 million. It is estimated to employ over 300 people, and develop and keep over 50,000 acres in crop cultivation.

"If this mandate is repealed or suspended, the project will not be able to secure further equity and debt financing, and all investments to date will be likely lost, and with it, several hundred jobs.

"Again, simply put, part IV of this bill ruins investors' confidence in Hawaii, in our commitment to renewable energy future, and keeping ag lands in ag production.

"Mr. Speaker, I'd like to make reference to the Federal Renewable Fuel Standards Waiver section, which Hawaii has opted into, requiring increasing ethanol use in motor fuel. This section has lots of problems, and should the State not be able to obtain the waiver from the EPA, the penalties are significant, and could add an additional 14 cents per gallon to the price of gasoline. So, again, section 4 is very problematic, and again, it goes against policy that we've been establishing for the last, at least, 6 years. It is a step backwards in the renewable energy future for Hawaii. Thank you."

Representative Choy rose to speak in support of the measure, stating:

"Thank you. And thank you for the comments from the Representative from Kauai. One of the things that I have to say is, this is my idea. Mr. Speaker, when I did come to this Body, you did say to use my creativity to find more revenues for the State.

"This is an idea where, what I wanted to do was, I wanted to use ethanol, the price of ethanol, to lower the price of gas, and then use that particular money to balance our budget.

"I agree with the speaker from Kauai, that there is a difference between cost and price, and the figure she's using is price. The figures I used was cost. The cost price of making a barrel of ethanol was about \$80, so that's what I used.

"Now, we know that ethanol is a commodity, so being a commodity, the prices do fluctuate. But, over time, I think all companies will have to make their money, so prices of ethanol will go up. I also realize that there

is a federal mandate for ethanol, and in the bill, it does have a provision in there that we must ask the federal government for permission to do this.

"Third, this is not an elimination of ethanol ..."

Representative Evans rose to a point of order, stating:

"Mr. Speaker, a point of order. The current speaker is speaking in support, but he is also looking out in the audience."

The Chair addressed Representative Choy, stating:

"Representative Choy, please address the podium. Sorry."

Representative Choy continued, stating:

"Okay. Now, I forgot where I was. I went over the federal mandate. I went over the cost areas of it.

"But, in all fairness, this particular suspension of ethanol is only for three years. And, that's when I feel that the State budget will improve. This is like a *kokua* from the oil companies. Will they help us for a mere 36 months? All the figures in the ethanol bill are blanked out. So, the figures, as far as what the barrel tax is going to be, what the different allocations are going to be, have to be determined. I think, further conversation on this bill is very, very important. Thank you, Mr. Speaker."

Representative Wooley rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. I rise in support of this bill. I just want to thank the original author of this bill. I think this puts on the table some of the most important issues that we face today, energy and food self-sufficiency. And, if we are successful with this bill, I think that it could be the most important piece of legislation that we pass this year.

"It addresses the \$8.6 billion that we currently export. About \$4 billion of that is purely for oil. This bill focuses on the planning, and the funding, and the implementation to make Hawaii energy and food self-sufficient, through economic development, and cooperation with our agencies. So, it will benefit not only our economy, but our environment, and our security.

"The challenge is that, in these times, in particular, we don't want to put additional taxes on the population. I think that is why we have a new part to this bill. I think that we really need to explore the numbers, because if some of the numbers are correct, we may be able to offset any increase in price for our barrel tax.

"So, I really encourage you all to support this bill, move it forward, and we'll continue to have the conversation. Thank you."

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

"Mr. Speaker, I rise with reservations. I also commend the authors of this bill. In Finance, it's known as the 'Freshman Bill.' The Chair of Finance gave an assignment, and I think they've risen to the occasion.

"It's a bill whose time has come. You talk to anybody in your districts, going door to door, at the filling station, 'How do you like the ethanol blending situation?' Or ask the boaters, or the fishermen, or the guys who fill-up their lawnmower, and carry their gas around in a can.

"Nobody likes ethanol. Nobody is getting the advantage of it. Even those who have the climate warming as the big issue know that the footprint of growing the corn, and taking the ethanol, and getting the energy out, regardless of whatever the octane is, it's a lose-lose situation, Mr. Speaker.

"So, this bill, I think is ingenious. It's timely. It's a chance for three years to put money into the coffers, and I think it would, quite frankly, delight the people of Hawaii.

"Now, part two of my reservation is, actually, that there's a tax increase that's associated with that. I'm not very fond of that, but in terms of the ethanol, I think it's an idea whose time has come. Thank you."

Representative Ching rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Morita rose to respond, stating:

"Thank you, Mr. Speaker. Just again in support with reservations. The main point that I want to make to this Body is the kind of market signals that you're sending out there. What you're doing is you're creating uncertainty in the market, even with a suspension. And again, I only gave you one example of a company that has been investing in a policy direction this Body has taken over the past, at least, six years or more. Again, looking at the continuation of mainly keeping sugar as the primary feedstock, and keeping sugar areas in ag production.

"Again, the main concern about part 4, are the kinds of market signals that you're sending out there to investors in this area. And it's not a very good signal. Thank you."

Representative Choy rose to respond, stating:

"With all due respect to my colleague from Kauai. There's not one drop of ethanol being produced here. And the three year suspension deadline was discussed with people who are going to invest in ethanol. Maybe in three years we will have one drop of ethanol being produced in Hawaii. Thank you."

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

"Yes, Mr. Speaker. I rise in strong support. Just some comments, Mr. Speaker. Several important points of this measure that haven't been touched upon are that this will create a taskforce for us to review and investigate the broad range of energy and food security issues, and develop an integrated energy and food policy. I'd like to commend, both the Chair of the Energy and Environmental Protection Committee, and the Agriculture Chair for finally melding the two most important policy decisions of this Body to promote and sustain agriculture, open lands, and also at the same time, to diversify renewable energy ability, and away from fossil fuels.

"I'd also like to thank the three freshmen, who I call the drafters of this current version before us, the Representatives from Manoa, Kona, and from the Windward side of the island. They took it upon themselves to craft a bill that would, at the same time, allow us to fund these two different initiatives regarding energy and food through the barrel tax, but at the same time, address some of the concerns that members of the Committee and the community also had.

"I'd like to also thank the Representative from Manoa for his fresh set of eyes upon the issue of the barrel tax. Interestingly, he came into my office last week all excited, like he had found some pot of gold there. He asked me this question. He said, 'Hey Chair, the barrel tax. The five cents on a barrel tax. How do you see that being imposed?' And I say, 'What do you mean by that?' He goes, 'What's the five cents on?' And I say, 'Well, it's on a barrel of oil.'

"And he said, 'No no no no no. It's not.' And I say, 'What do you mean by that? It's five cents on a barrel of oil, this unrefined crude oil coming in.' And he said, 'No,' And he said he'd tell me about it later.

"But, that's the kind of industry we have with this new class of freshmen, Mr. Speaker. So, I was just really pleased to see this measure come out the way it did, and I hope we can all work on it together, because I think it serves some really important policy direction for this state. Thank you."

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

"Thank you, Mr. Speaker. And I rise to speak in support, but with reservations. It sounds like, from the debate that was going on and what happened after it passed the EEP Committee was that, whatever happened in the later Committees, they failed to get prior concurrence from the EEP Chair, and I hear the frustration in her voice. And, any time we work in this sense, it's just bad 'kung fu'. Thank you."

Representative Ching rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in support however, with reservations of H.B. 1271 - Relating to Government. The proposed bill establishes a task force to review and investigate a broad range of energy and food security issues while developing an integrated energy and food policy, while also increasing the environmental response tax from five cents to \$1 per barrel.

"This legislation is representative of one of the largest tax increases we have seen and will eventually impact the gasoline prices of Hawaii drivers. By increasing the tax on a barrel of oil, this measure has the potential to slow the economy down even further due to our states reliance on fuel for transportation.

"This tax is highly regressive and has the potential to impact the poor the most. During a time when our nation and State are in economic uncertainty we must be careful and cautious with the bills we pass. Thank you."

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

"Just, in support, with reservations. I have just a couple of verbal comments. I originally was against this bill, because there was a small tax increase, but when you take the ethanol blend temporarily out of there, it's spending-neutral for the taxpayer. But at the same time, it does raise an estimated \$200 million for the State.

"My reservation is, I would like, as it comes back to us, to ensure that we implement in the bill somewhere, that when the ethanol is ready to go back in there, that we would reduce the tax on the barrel of oil, so that it's always spending-neutral for the taxpayer."

Representative Belatti rose to speak in opposition to the measure, stating:

"Thank you. For the reasons described by the Representative from Kauai, I will be voting 'no' on this bill. Thank you."

Representative C. Lee rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Chong rose in support of the measure, stating:

"Mr. Speaker, I'm in strong support."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1271, HD 3, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," passed Third Reading by a vote of 41 ayes to 8 noes, with Representatives Belatti, Berg, Brower, Finnegan, Hanohano, Marumoto, Saiki and Takumi voting no, and with Representatives Nishimoto and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 932) recommending that H.B. No. 1378, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1378, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Ching rose in opposition to the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition to H.B. 1378 - Relating to Advanced Practices Registered Nurses. This bill could be counterproductive in that it could result in more malpractice cases, which can drive up the malpractice premiums even higher than they are, which might result in even less doctors wanting to practice here. This bill is designed to alleviate the shortage of healthcare in Hawaii, but it could make the problem worse. The Hawaii Medical Association states:

1. APRN's lack the requisite education and training to prescribe independent of direct physician supervision
2. All prescriptive privileges should be decided by the Hawaii Medical Board, and not the Board of Nursing.
3. This bill will create a two-tiered health care system, in which the indigent and less educated patients will receive care inferior to that available to patients of higher socioeconomic status.
4. Should something go wrong while a patient is under APRN care, and the patient is transferred by the APRN to a physician for care, it will be the physician and the hospital who are sued, resulting in more lawsuits and higher malpractice premiums.

"Thank you."

Representative Thielen rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Ward rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Finnegan rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative M. Lee rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative M. Lee's written remarks are as follows:

"Mr. Speaker, I stand in support of this measure, which recognizes Advanced Practice Registered Nurses (APRNs) as participating primary care providers for insurance purposes, permits APRNs to sign documents related to healthcare for their patients, clarifies the educational requirements for APRNs and updates their authority to prescribe pharmaceuticals, medical equipment and therapeutic regimens in accordance with their scope of practice.

"It is no secret that access to care in the rural areas of our State is limited. The cost of care has also been steadily increasing. The full participation of the Advanced Practice Registered Nurse is an important part of the effort to bring more access to our rural areas, and also to patients to whom access of care is limited. Removing barriers to APRN practice will allow healthcare to be provided to under-served populations and to those who have limited access to health care facilities.

"Evidence gathered over the past forty years demonstrates the ability of APRNs to provide safe, competent and high quality care. On Friday of this week, we will honor an APRN who was recognized recently for her work by the American Geriatrics Society—the first non-physician to receive the Society's "Clinician of the Year Award."

The \$200 million allocated for health professions training in the final federal stimulus package will be divided between the Nursing Workforce Development Programs (Title VIII of the Public Health Service Act) and the Health Professions Training Programs (Title VII). This is a doubling of present funds and much of it will go to support advanced practice education. Further, the Department of Labor will be making funds available to states for nursing education. To compete for these funds, it is critical that we pass HB1378 HD2. Hawaii will need to be in compliance with national practice to compete for the funds."

"It is hard to make the case for the University of Hawaii when our State does not allow full authority. Advanced practice registered nurses are not junior doctors. They practice an honored profession. Medicine and nursing are complementary disciplines, and the best interests of the consumer are met when APRNs can practice without barriers, and as an essential component of the primary healthcare team."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1378, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ADVANCED PRACTICE REGISTERED NURSES," passed Third Reading by a vote of 47 ayes to 2 noes, with Representatives Ching and Marumoto voting no, and with Representatives Nishimoto and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 933) recommending that H.B. No. 980, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 980, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you. I'm strongly in support of this bill that is proposed by the Department of Land and Natural Resources. I think it will provide many recreational opportunities for our people, but I would like to point out one part, which is of concern to me.

"Apparently, there will be opportunities for motorized recreation on two islands. I suppose this is good news for proponents of people who like to ride motorcycles and who like to ride all-terrain vehicles. But I am concerned because there might be the opportunity for minors to ride all-terrain vehicles. They might be a smaller size, but since these vehicles go very fast, perhaps up to 50 mph, it could be quite dangerous.

"A private contractor is supposed to operate these sites, and I'm sure they'll do a good job, because with regulations, with safety concerns, because they themselves do not want to be liable. But, I still think there is some danger of liability to the operator, and to us, to the State.

"So, because of the liability issue, and because of the possible danger to minors, I would caution us to perhaps put some restrictions on ATV use by minors in this measure. Thank you."

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

"Mr. Speaker, I rise with reservations, and would like to particularly regarding Ka Iwi, and the lack of need to have commercialization, if you will. Thank you."

Representative Berg rose in opposition to the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Berg's written remarks are as follows:

"Mr. Speaker, I rise to speak in opposition to HB 980 HD2, "Relating to Recreational Renaissance".

"This bill offers an attractive narrative, presenting itself as a simple way to obtain the funds needed to address the backlog of repairs and improvements in Hawaii parks and recreational areas. We all have our favorite recreational areas that desperately need attention.

"After reviewing the testimony on this measure, however, I fear that this is really the 'wolf in sheep's clothing'.

"This legislative proposal is really not a recreational plan, but a risky financing venture that requires taking out a large loan at the front end and then privatizing our public lands, commercializing our recreational

harbors, and saddling our natural areas with increased infrastructure necessary to support tourist use -- all in order to generate the future income to pay off that big debt. In the process, instead of being driven to protect our public trust resources, DLNR will be forced to manage our public resources as commodities to produce sufficient income to remain solvent.

"The plan provides few specifics on how the debt service requirements will ultimately translate into user fees to be shouldered by local users.

"Testimony offered on this measure shows it is favored by commercial interests, opposed by many recreational users, and viewed with utmost caution by affected communities.

"The Hawaii Kai Neighborhood Board, for example, justifiably worries about possible 'improvements' that could ruin the pristine Ka Iwi coastline between Hanauma Bay and Makapuu. The need to pay off DLNR's debt could, in the Board's view, 'cause the State to market the area to more and more tourists in order to generate revenue. This would drive out local use, as is evident at Diamond Head and Hanauma Bay where fees are already imposed.'

"Several testifiers pointed to the danger of more of our recreational areas being 'improved' by DLNR's vision regarding more comfort stations, cabins, camping areas, concessions, boardwalks, parking lots, and similar facilities. They express grave concerns that Ka Iwi could end up like Diamond Head Park, with its information center, T-shirt sales, non-stop tourist buses, vending machines, and so on.

"Residents in East Honolulu have fought for three decades to preserve the area and are justified in their doubts about this financing plan being proposed so hastily and rushed into law. Two environmental organizations reminded us of an agreement between the State and federal governments setting aside Keehi Lagoon to mitigate for the loss of habitat of the Hawaiian Stilt caused by construction of the reef runway.

"Audits done in the past several years suggest that DLNR's problems stem as much from ineffective and broken management as from inadequate finances. This risky financing plan attempts to address the latter, but gives us little confidence about the former.

"Still, even larger questions remain. What about ceded lands? How will they be impacted? For these reasons and concerns, Mr. Speaker, I vote today in opposition to HB 980 HD2 and urge my colleagues to do the same."

Representative C. Lee rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Brower rose in opposition to the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Brower's written remarks are as follows:

"Mr. Speaker, I applaud the State's interest to revitalize Hawaii's outdoor recreational infrastructure. One of the harbors—the Ala Wai Small Boat Harbor—is located within my district and in need of improvements.

"However, at this time, a portion of this may not be right. A number of constituents and community groups testified in opposition to the Recreational Renaissance Plan embodied in House Bill 980.

"As their Representative, I am their voice and I wish to express some of their concerns over the impact of this Plan on harbor residents and the recreational public.

"Proposed funding mechanisms would overburden the middle-class live-aboards at the Ala Wai Boat Harbor.

#### 1) Additional Fee Increases and Co-Mingling of the Funds

"The State owns and operates the harbors to keep boating affordable for the people of Hawaii. It was never intended for revenue-making purposes. (Our State has designated other harbors for commercial use. Those

designations should be maintained and those activities should not encroach upon the Ala Wai harbor.)

"Fee increases for live-aboards at the Ala Wai Boat Harbor mean that, for many who live on fixed income and are struggling through the recession, they may lose their homes.

"For years, the boaters have approached me about how the current fee-tiering system at the harbors results in them, Ala Wai Boat Harbor live-aboards, subsidizing the lower-income harbors (which actually lose the State the most money). One constituent proposes a system that charged one fee to berth a recreational boat in the State of Hawaii, regardless of where the boat is berthed.

"Recreational Renaissance exacerbates this problem because now boaters can forget about seeing more money come to improve the Ala Wai. Now, their fees could fund *non-harbor* improvements, such as beaches, parks and trails.

"Lumping the Special Boating Fund in with other funds administered by the DLNR would facilitate DLNR using the Special Boating Fund money for non-boating projects.

"This constituent, speaking on behalf of many boaters, proposes that each special fund should pay its own way.

#### 2) Proposed funding mechanism would limit public access to popular beaches and parks

"As a native of the islands, I feel that we cannot let our open spaces and beaches slip out of our hands.

"These increases (including parking) will make it much more difficult for the average individual to enjoy the recreational amenities of the Ala Wai harbor.

"We are concerned that the proposal to lease submerged lands at the Ala Wai would force the commercial companies to encroach on the free parking area dedicated for recreational use.

"The State Charter on DOBOR requires the division to offer affordable use of public harbors and parks. The attempt to lease harbor lands to for-profit private companies would displace or economically restrict the Honolulu resident's use of their waterfront park in Waikiki.

"The leasing of submerged lands may be subject to the court ordered moratorium as submerged lands are also considered ceded lands.

#### 3) Public Safety would be jeopardized if commercial vessels were allowed to moor at the harbor

"Related to the previous point, if you let "big boats" into the small boat harbor, paddlers, surfers, free divers, and others may be in danger. There simply is not enough room to accommodate the added road traffic. There may be less people able to enjoy the harbor if their safety is not protected.

#### 4) Commercial Vessels would bring Noise & Toxic Fumes to the surrounding community

"The neighborhood cannot accept the additional noise at all hours of the day and night.

"Trucks delivering food and drink plus trash trucks, tourist buses, trolleys, cabs and other hotel traffic compete for this space and leave their noise and filth behind. To add commercial noise and traffic at this part of the Ala Wai would be an irresponsible action.

"Residents at the nearby Ilikai Marina have testified that, even now, the sounds of some of the small boats can be upsetting when the various noises mentioned above are heard. The sounds of a commercial boat engine can be heard when large boats come to re-fuel at the dock.

"Additionally, the smell of the fuel used, and the crew getting all those boats fit for sea, is not appropriate for a residential area."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 980, HD 2, entitled: "A BILL FOR AN ACT RELATING TO RECREATIONAL RENAISSANCE," passed Third Reading by a vote of 45 ayes to 4 noes, with Representatives Berg, Brower, Coffman and Hanohano voting no, and with Representatives Nishimoto and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 936) recommending that H.B. No. 378, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 378, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Ward rose to speak in opposition to the measure, stating:

"Mr. Speaker, I rise in opposition. This is in regards to the Department of Transportation, the International Airport, and our airport security contracts.

"Mr. Speaker, it's a bit befuddling that we have to have non-bid contracts, or contracts by negotiation at the airport. Two reasons for that. During the hearing in Finance, it became very obvious that what was intended to be protected, rather than open competition, were Homeland Security secrets.

"Now, if a company is going to bid for a contract at an entity as big as the Honolulu Airport, they're not going to be the small 'mom and poppers' that we have guarding a couple acres of land. These are the 'big boys'.

"So, those who are bidding for this, either had it here, or have had experience on the mainland. And to put a negotiation, rather than an open competition to save taxpayers money, and do as we do with usual procurement seems highly, highly unusual, Mr. Speaker.

"So, I stand here saying, are you sure we want to go down this line? Because every other place has procurement, procurement, procurement. This is saying, negotiate it and do it. And I think for these proprietary things, it's a little bit of a 'boogie man'. Thank you."

Representative Evans rose to speak in support of the measure, stating:

"Mr. Speaker, I stand in support. I just want to point out for Members, that in the purpose section of the bill, it clearly states it is problematic to require the Department of Transportation to follow the pre-September 11, 2001 practice of publicly bidding and awarding security contracts at Hawaii's airports, as the Department of Transportation is prohibited from disclosing numerous federal requirements to companies bidding on the contract.

"If you go out to bid, and don't disclose all the requirements, it's just setting you up for a protest. So, I think this is a reasonable thing to move forward and continue discussion. Thank you."

Representative C. Lee rose to speak in support of the measure with reservations, stating:

"Mr. Speaker, I just vote with reservations, please. I believe DOT was opposed."

Representative Ward rose to respond, stating:

"Mr. Speaker, a brief retort. I think, in response to what otherwise we always put in the preamble, things that make the bill sound like it's really necessary. Those who are bidding for this have been there and done that.

"If there can be data showed to me that says that these are neophytes, small guys who don't know their way around since 9/11, 2001, I would gladly concede. But, the point is, they've been there, they've done that.

This thing about proprietary interests, that's how the CIA and other untoward things happen, because this is top secret, we can't tell you about it, and it ends up doing a lot of spoilage, and I think our airports shouldn't be spoiled. Thank you."

Representative Keith-Agaran rose in opposition to the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Keith-Agaran's written remarks are as follows:

"I rise to speak in opposition of HB 378, HD1, that will allow the Department of Transportation (DOT) to obtain security services at Hawaii's airports by negotiation and not through a bidding process.

"This bill is not necessary due to the procurement law in Chapter 103D authorizing the State Procurement Policy Board to allow DOT to procure services when it believes it is appropriate, to ask for a waiver or change from the usual sealed bid requirements. The language of this bill would mandate DOT to negotiate the contract. Additionally, it does not address procedures for handling sensitive information without compromising security.

"Therefore, I oppose this bill."

Representative Ching rose in support of the measure with reservations and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in support however, with reservations of H.B. 378 - The proposed bill allows the Department of Transportation to hire and award security contracts by negotiation and not through a bid. Due to security reasons, contract bidders are unable to see the imposed requirements and confidential matters prior to bidding on a contract. As a result, the winning bidder is unaware of the additional cost factors, causing a contractor to be in a position to either default or cut back on services to meet the added costs imposed by federal requirements.

"The DOT understands the intent of this bill, and appreciates the legislative acknowledgement that these requirements pose unique challenges to the procurement process. The reservations held by the DOT are due to adopted rules that are comparable to this bill.

"We must always remember that security needs to come first. With cooperation from the DOT and slight amendments, this bill can be beneficial to both security contract bidders and to the security of our airports. 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. 378, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Third Reading by a vote of 35 ayes to 14 noes, with Representatives Belatti, Berg, Brower, Finnegan, Hanohano, Keith-Agaran, Marumoto, Morita, Pine, Saiki, Takumi, Thielen, Wakai and Ward voting no, and with Representatives Nishimoto and Takai being excused.

At 5:03 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1097, HD 1  
H.B. No. 1666, HD 1  
H.B. No. 1271, HD 3  
H.B. No. 1378, HD 2  
H.B. No. 980, HD 2  
H.B. No. 378, HD 1

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 937) recommending that H.B. No. 681, HD 1, pass Third Reading.

Representative B. Oshiro moved that notwithstanding the recommendations contained in Standing Committee Report No. 937, that H.B. No. 681, HD 1, be recommitted to the Committee on Finance, seconded by Representative Evans.

The motion was put to vote by the Chair and carried, and H.B. No. 681, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE TRANSIENT ACCOMMODATIONS TAX," was recommitted to the Committee on Finance, with Representatives Nishimoto and Takai being excused.

At this time, the Chair stated:

"Members, on page 37, we're going to take out of order, Standing Committee Report No. 946. House Bill 215, House Draft 2."

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 946) recommending that H.B. No. 215, HD 1, as amended in HD 2, pass Third Reading.

Representative Karamatsu moved that notwithstanding the recommendations contained in Standing Committee Report No. 946, that H.B. No. 215, HD 2, be recommitted to the Committee on Finance, seconded by Representative Ito.

Representative McKelvey rose to speak in support of the motion to recommit, stating:

"Thank you very much, Mr. Speaker. I speak in support of the recommitment. While well intentioned, this bill has many flaws and *pukas* and question marks on it. So I applaud the Chair and the Vice Chair for recommitting this bill and working on it, so that we can move forward with a very clean and powerful measure to address the issues in the measure. Thank you."

Representative Pine rose to speak in support of the motion to recommit, stating:

"I stand in strong support of the recommitment. The bill, as written is not ready, and it would have allowed the pay to play system of the past to be re-instilled."

Representative Saiki rose in support of the motion to recommit and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Saiki's written remarks are as follows:

"Mr. Speaker, I rise in support of the motion to recommit H.B. 215, H.D. 2 ("H.D. 2") to the Committee on Judiciary ("JUD") because it is premature for this Body to vote on this legislation.

"The alternative to recommitting H.D. 2 to JUD was the prospect of facing a Floor Amendment that would have amended provisions regarding corporate contributions and nonresident contributions, as described in the cover sheet to Floor Amendment No. 4 (see below). Recommitment was deemed appropriate because it will afford JUD and this Body additional time to analyze the proposals in the floor amendment. The proposals aim to decrease the aggregate cap on corporate contributions from \$50,000 to \$25,000, and to close several loopholes.

"The first loophole would un-do any cap on corporate contributions because H.D. 2 limits a company's contributions made from its "treasury" under section 11-JJ(b)(1). It is unclear what "treasury" means. A narrow interpretation of "treasury" would result in companies making unregulated contributions (i.e., contributions that exceed the aggregate of \$50,000) from "non-treasury" sources. The Floor Amendment would have made clear that contributions from "companies" as opposed to "treasuries" are subject to the cap.

"The second loophole would allow corporate PACs that are formed outside of Hawaii to make unlimited contributions to Hawaii campaigns.

This is because H.D. 2 deleted the phrase "including a noncandidate committee organized under the laws of another state and whose participants are not residents of the state" from section 11-00(a). The floor amendment proposed that this phrase be reinserted into the statute.

"The third loophole would have restricted application of the 20% out-of-state contribution limit only to campaigns for public offices with two-year terms. The limitation would not have applied to those with four-year terms. This is due to the use of the term "two-year election period" in section 11-00(a). The Floor Amendment proposes that the term be revised to read "election period."

"Recommitment is appropriate because JUD will now have additional time to analyze these matters and incorporate new language into H.D. 2. Thank you."

FLOOR AMENDMENT No. 4

## HOUSE OF REPRESENTATIVES

AMENDMENT TO: H.B. No. 215, H.D. 2

OFFERED BY: Representative Lyla Berg

DATE: March 10, 2009

SECTION 1. H.B. No. 215, H.D. 2, RELATING TO CAMPAIGN FINANCING, is amended by amending section 11-JJ(b)(1) of section 2 to read as follows:

"(b)(1) No person shall make contributions to a noncandidate committee in an aggregate amount greater than \$2,000 during a two-year election period; except that a company contributing to the company's established noncandidate committee shall be limited to an aggregate amount of not more than \$25,000 in any two-year election period."

SECTION 2. H.B. No. 215, H.D. 2, RELATING TO CAMPAIGN FINANCING, is amended by amending section 11-00 of section 2 to read as follows:

"§11-00 Contributions limited from nonresident persons. (a) Contributions from all persons who are not residents of the state at the time the contributions are made, including a noncandidate committee organized under the laws of another state and whose participants are not residents of the state, shall not

HFA HB215 HD3 HMS 2009-2935

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exceed twenty per cent of the total contributions received by a candidate or candidate committee for each election period.

(b) If the candidate or candidate's committee returns or refunds a contribution or contributions that exceed twenty per cent of the total contributions received during an election period within thirty days of the last day of the reporting period for the election period, the candidate and candidate committee shall not be in violation of this section.

(c) This section shall not be applicable to contributions from the candidate's immediate family."

Representative Awana's written remarks are as follows:

"Mr. Speaker, I rise in support. The measure helps to ensure that our Hawaiian works of art will be properly cared for through additional funding that is long overdue. Recipients Bishop Museum and Iolani Palace representatives were present in the wee hours of the morning to provide testimony in person – a symbol of just how important this measure is and means for them. At a time when we are experiencing financial challenges, I am sure that we all recognize the importance of these two entities and how the palace and the museum cannot be replaced and must be preserved for the benefit of future generations."

Representative Ching rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support of H.B 963 - Relating to Works of Art Special Fund. The proposed bill allows expenditures from Works of Art Special Fund for acquisition of works of art for the Bishop Museum and Iolani Palace. By extending the works of art special fund to support the Palace and the Museum, the two institutions will have greater financial resources to support their important work, adding to the significant value of the culture of Hawaii. This will lead to an increase in the numbers of people who will have access to these worlds and the funds generated.

"The Historic Hawai'i Foundation has expressed the utmost support stating that 'besides being a public benefit in its own right, the investment in these important historic and cultural resources will also serve a general economic development goal.' Studies made by the Travel Industry Association of American have reported that heritage and cultural tourists consistently stay in a tourist destination longer and spend more money than other types of travelers.

"By allowing expenditures for the Bishop Museum and Iolani Palace, this bill would lead to the enjoyment of these institutions by both visitors and *kama'aina*. By supporting these institutions, we will be contributing to the preservation and showcase of Hawai'i to visitors and locals alike. 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. 963, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WORKS OF ART SPECIAL FUND," passed Third Reading by a vote of 49 ayes, with Representatives Belatti and Takai being excused.

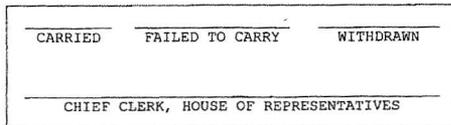
Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 939) recommending that H.B. No. 819, HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 819, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Pine rose to speak in support of the measure, stating:

"Yes, I'd like to speak in support of SCR 939, Relating to Crime. This is the bill otherwise called 'Karen's Law.' And I want to speak the best that I can for the family that asked the Legislature to bring this here, today. This bill was brought forth because a woman in my district, Karen Ertell, was raped, and brutally murdered, and robbed, by a 15 year old. And so, what I'm going to read to you today is just to explain why this was brought here. This is testimony from Karen Ertell's boyfriend, and what happened to them in the Judicial System. Because the juvenile was under 18, special processes had to take place in the family court system to decide whether the juvenile was tried as an adult or not.

"Kevin says, 'I cannot describe to you the daily pain and anguish that Karen's family and I, and loved ones have endured since her murder. This anguish turned into weeks, then months, and now almost two years. Yet, there's still no real trial regarding the murder. In the family court, we



The motion was put to vote by the Chair and carried, and H.B. No. 215, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CAMPAIGN FINANCING," was recommitted to the Committee on Finance, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 938) recommending that H.B. No. 963, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 963, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Sagum rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Sagum's written remarks are as follows:

"Mr. Speaker, I stand in support of HB 963, HD1: Relating to Works of Art Special Fund.

"Given our current economic situation, this measure provides an alternative source of funding for two very important cultural institutions in the State without committing any general funds. The Hawaii State Art Museum is very much like the Bishop Museum and Iolani Palace, yet all three concentrate on different time periods as reflected in their respective collections. I fully support using the Works of Art Special Fund to provide much needed assistance to these two noteworthy organizations.

"Thank you, Mr. Speaker."

Representative Awana rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

endured eight delays and postponements, as the legal wheels turned painfully slow, before the judge finally made a decision to waive jurisdiction and move the case to adult court.'

"This took nearly 18 months, just to decide that this person that raped, and murdered, and robbed Karen Ertell, would be tried as an adult or not. This not only put Karen's family through hell, but it cost an incredible amount of taxpayer dollars.

"Karen's daughter, Malanie McLellan wrote in her testimony:

I found my mother's body when I was 9 months pregnant with the grandson that she will never meet. She was brutally attacked, raped, beaten, robbed and finally strangled to death. The police described the attack as "very well planned, very well executed and very well covered up." These are not actions of a child but of a mature minded juvenile who will now face trial as an adult.

It took 15 long months before it was even determined whether her killer would be tried as a juvenile or as an adult for these crimes. These 15 months were long and horrible. Day after day wondering when and if justice would be served. I would not wish this on anyone. It felt like we had been victimized over and over again, only this time by the Judicial System. The waiver hearing system in place for juveniles works for petty crimes but is not efficient for heinous crimes like 1st and 2nd degree murder. It's an enormous waste of taxpayer money.

Some opponents to this bill argue that the juvenile may have some mental health issues in these cases but that's a moot point. Adults also have mental health issues in murder trials and those circumstances are taken into account regardless of whether it is a juvenile or adult case. The individual who committed the crime would still be allowed a fair trial, due justice, and a chance to prove their innocence or guilt, and will also have a chance to present their own unique circumstance to a judge or a jury.

We're not talking about children. We are talking about 15 to 17 year olds who know right from wrong. What will it take before Hawaii sends a message that premeditated murder will not be tolerated?

My mother's killer told his father and the police that part of the reason he kept up his criminal behavior, 10 felony arrests before this, is because he knew he could get away with it.

"Mr. Speaker, it took five separate family court hearings just to decide whether the juvenile was tried as an adult. That's five separate times that the family had to go into court, and again, see the alleged murderer of their mother, again tell their story how many times that they found their mother's dead body."

Representative Finnegan rose to yield her time, and the Chair "so ordered."

Representative Pine continued, stating:

"The bill you have before you is not necessarily the bill that the family wanted. But, I think that the Human Services Committee and the Judiciary Committee really thought long and hard about this.

"Just think about both the potential juvenile who is an alleged killer, and not convicted yet, but also, why this bill was brought forth. The family is suffering because of our laws in the Judicial System. So, what the Judiciary Chair did, was amend the bill to allow the juvenile to go instead to a Circuit Court. Because, what we discovered through all these different hearings from prosecutors was, because of the secrecy of the family court, all of the times that the family had to give evidence and tell their testimony, and the prosecutor's time, and the public defender's time, the police's time.

"All that was gathered, all the information, in the Family 'secret' Court, could not be used in this next trial that they're going through. So, they decided to transfer to the Circuit Court, so at least the judge can share information with another judge, and things would not be duplicated, thus

allowing the family to spend less time on their suffering, and more time just recovering.

"They also added to the measure, Mr. Speaker, that if anything is found that's incorrect, or if the juvenile is found to have mental problems, it would allow them to go back to the juvenile court. So, there's multiple checks and balances in this bill, Mr. Speaker, and I urge the members of the House, on behalf of the family, to consider other families who also may suffer from the same fate.

Representative Ching rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. In support, and I ask that the words of the Representative of Ewa Beach be entered as my own. Thank you. Mr. Speaker, Karen Ertell was a close friend of mine. Karen Ertell called me a week before she passed, and I would not be doing this bill or this Legislature any justice if I didn't express that Karen could have been anyone here in this Chamber, because she was quite a businesswoman, she was very smart, she was not naïve, and to own a coffee roasting company, boy, that's hard work. She was doing a lot of things, any she could really be anyone here, anyone you might meet on the street. And, I just need to say that because sometimes I think she's been portrayed as someone who was maybe at the wrong place, at the wrong time; even portrayed as a little naïve. She was not. She was strong, and she was a highly contributive member of our community.

"So, I'm hoping that this bill passes."

Representative Wakai rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. I rise in support of this measure. Here, we have a 15 year old boy, Vernon Bartley, who robbed, murdered and raped a woman. This is a vile young man. I'm all for rehabilitating our children who make bad decisions, but there are some kids who should never be given an opportunity to prey on society a second time.

"Despite the fact that the waiver law has sent dozens of juveniles to adult prison, there was a notorious case where the forgiving legal system allowed a child killer to grow up to be an adult predator. In 1990, John Sua was 15 years old. He shot and killed a 24 year old Navy man and wounded two others in a Waipahu bar. Due to his age, he was not eligible to be waived to adult court.

"On his 19th birthday, he was released from the Youth Correctional Facility. Within months of his release in 1994, John Sua put a blade in the neck of a Waipahu man. Today, that victim remains paralyzed from his neck down. Sua was convicted of attempted murder, and sentenced to a life term, with the possibility of parole.

"During my former days as tv reporter, I interviewed the victim at a nursing home. He was on a ventilator and will never leave that hospital again. He was angry that justice was never served during John Sua's days as a juvenile.

"And, for the safety of our community, we cannot let another Vernon Bartley or John Sua to hurt our neighbors. Thank you, Mr. Speaker."

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

"Mr. Speaker, with reservations. Juveniles do commit horrible crimes, and my heart goes out to the family and to the victim, but it's not clear to me why we would only apply these to the most egregious crimes, when juveniles commit lots of other crimes as well, that can also be very hurtful to people.

"So, maybe there's some data to support doing it just for the most egregious crimes, but it seems to me like, if anything, we should be looking at a broader range, because even if a juvenile just beats somebody up, that can scar them for life, both physically and psychologically. So, it's just not clear to me where to draw the line on this, and that's why I have reservations about it. Mahalo."

Representative Wooley rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Tokioka rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative M. Lee rose in support of the measure with reservations and asked that her written remarks, and the remarks of Representative Rhoads be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative M. Lee's written remarks are as follows:

"I rise in support with reservations on this measure, which would mandate that minors age 15-17 be tried as adults in cases of first and second degree murder. Although I am an advocate for the rights of victims, I am not certain that individuals at age 15 have the same capacity to deal with emotionally charged issues as adults. Some discretion must be left to the court in such cases. The length of time it takes to decide whether or not trial as an adult is appropriate. Clearly not every case is such.

"In addition, I agree with the statement of the representative from Chinatown. Mahalo."

Representative McKelvey rose to speak in support of the measure, stating:

"Thank you very much, Mr. Speaker. In strong support, and may I have the comments from the Representative from Iroquois Point/Ewa Beach entered into the record as if they were my own? And just some brief additional comments. I too was concerned about the idea that the juvenile will be remanded to an adult correction center, and be confined to lockup. Because of protective custody, I just hope as this bill moves to the Senate, that maybe they will look at adopting the California model, whereby the juvenile serves their time in the youth correctional system until they're 18, and then they are remanded into the adult correctional system. Thank you."

Representative Ward rose to speak in support of the measure, stating:

"Mr. Speaker, in support. Mr. Speaker, I think some of the Founders of this nation said, 'justice delayed is justice denied,' and I think that's the whole process of why this the ethos of the bill, for the sake of the family, and for all of the others who have been postponed and postponed, as if the system doesn't care about what happened to them.

"It's important to protect the rights of everybody, but the fact is, that these young men are as virile, and as violent as any man, grown or otherwise is. And to think that their capacity, in fact, there was a matter of weeks ago, someone who was eight years old, who killed one in his family.

"So, the fact that this category is there, I think is very apt that we are looking at this bill, and at this particular time. 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. 819, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CRIME," passed Third Reading by a vote of 42 ayes to 7 noes, with Representatives Berg, Hanohano, Luke, Morita, Nakashima, Saiki and Takumi voting no, and with Representatives Belatti and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 940) recommending that H.B. No. 690, HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 690, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. With reservations. Mr. Speaker, this measure requires insurers, mutual benefit societies, and health maintenance organizations that offer healthcare coverage to the regular employees of any group or association to offer the same coverage to part-time employees working at least 15 hours per week.

"Mr. Speaker, my concern is that, when you have legislation like this, and it's mandating to offer, and I understand that the part-time employees will be paying for the full cost of the insurance, according to this bill. But, my concern has to do with adverse selection issues, and should those who are the sickest choose to take this coverage, that it could make premiums higher for everyone else. Thank you."

Representative Herkes rose to speak in support of the measure, stating:

"In support. As far as the previous speaker's concerns, we're trying to deal with that, by making sure that there is a certain percentage of those people that take the plan. They have to have some length of service, and they can't opt in and out. 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. 690, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 49 ayes, with Representatives Belatti and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 947) recommending that H.B. No. 311, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 311, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. With reservations. The only thing that I have some concerns on, this is a bill relating to liquor, is that we should also have a sunset date, so that we don't provide an incentive for companies to not pay their taxes when the economy is good. 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. 311, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LIQUOR," passed Third Reading by a vote of 49 ayes, with Representatives Belatti and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 948) recommending that H.B. No. 645, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 645, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Thielen rose in support of the measure with reservations and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Thielen's written remarks are as follows:

"Mr. Speaker, I rise with reservations on HB 645 HD 2, relating to Kaena Point.

"The bill creates a two-year pilot program to license overnight fishing there.

"The problem that has arisen is how to tell the difference between the homes who fish and the fishers who camp. The solution has become a \$120 license, along with the requirement that the licensed fishers report any illegal activity to the Department of Land and Natural Resources, including reporting on those homeless who camp overnight without fishing.

"This bill is just going to cause confusion.

"The campers who fish, the fishers who camp and those overnight on the beach illegally will be a tough group for the DLNR to sort out. This could dramatically increase the cost of patrolling this area over the next two years, while doing little to increase safety there.

"For these reasons, I have reservations about HB 645 HD 2, relating to Kaena Point."

Representative Magaoay rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. In support with brief comments. The reason we have this bill right now, it's a balance between the fishermen and saving our *aina* that we have in Kaena Point. I really appreciate the Vice Chair of Water, Land for offering a compromise on the bill, which basically permits them to fish.

"But, even with the compromise that she had for fishing, whether they had to have a permit, the fishermen are still not happy right now. So, basically, what's happening right now, DLNR has a taskforce, and hopefully this bill is a work in progress. Hopefully, there's some resolution that we can have, to basically look at the fishermen. Right now, the biggest problem is, we have the fishermen who say that they like to fish, but there is no place for them to fish. 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. 645, HD 2, entitled: "A BILL FOR AN ACT RELATING TO KAENA POINT," passed Third Reading by a vote of 49 ayes, with Representatives Belatti and Takai being excused.

At 5:24 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 963, HD 1  
H.B. No. 819, HD 2  
H.B. No. 690, HD 2  
H.B. No. 311, HD 1  
H.B. No. 645, HD 2

At 5:24 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 5:26 o'clock p.m., with Vice Speaker Magaoay presiding.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 951) recommending that H.B. No. 1692, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1692, HD 2, pass Third Reading, seconded by Representative Chong.

Representative Cabanilla rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Cabanilla's written remarks are as follows:

"HB 1692 provides for a 5 year limit of tenancy in public housing.

"Mr. Speaker and colleagues, there are 14,000 people awaiting to get into public housing. Poverty can be passed on through many generations, unless the causes of poverty are addressed. By allowing families to prolong their stay in public housing generation after generation is condoning the cycle of poverty.

"HB 1692 provides the "stick" part of the process. By making a clear boundary that, unless the person is eligible for veteran, elderly, or disabled

housing, able bodied individuals will be required to become motivated to overcome barriers and escape poverty.

"Without this provision of limitation of stay, public housing in itself will incentivize and encourage poverty.

"Able bodied people generation after generation will be afraid to move on to market homes because they got it made.

"Mr. Speaker, with these economic times, we need to service more people and provide for equal access and opportunity. Not because you got in first, you can stay there as long as you want.

"Mr. Speaker, we can no longer do business as usual – we need to move, just like the tenants in public housing."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1692, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," passed Third Reading by a vote of 49 ayes, with Representatives Manahan and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 953) recommending that H.B. No. 1439, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1439, HD 1, pass Third Reading, seconded by Representative Chong.

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

"Thank you, Mr. Speaker. With reservations on this particular measure. The purpose of this bill is to make various amendments, shaping the purpose and application of the Life Settlements Act, which established consumer protections in life settlement transactions. Or, otherwise called STOLs, this is Stranger Originated Life Insurances.

"I just wanted to make a short comment, and I think through reading some of this, that it sounds like it weakens some of the consumer protections. Thank you."

Representative Ching rose in support of the measure with reservations and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in support however, with reservations of H.B. 1439 – Relating to Insurance. I am concerned this bill might undermine the life insurance market, especially for senior citizens. Life insurers have increasingly found ways to make life insurance available and affordable to senior citizens, who want to secure the financial future of a child or other family member.

"The Department of Consumer Affairs is concerned with the following issues:

1. Section 2 of the bill makes clear that a life insurance producer does not need a separate license as a life settlement broker. This would make it harder for the Insurance Division to keep track of the life settlement marketplace because our database is based on licensing. Merely notifying us of the onset of activity does not give us a good basis for monitoring the continuation or cessation of that activity. If the intent is to regulate life settlement transitions, this charge makes it harder to do.
2. Section 6 of the bill removes the requirement for the consumers to receive disclosure of the broker's compensation. Although disclosure of broker's compensation does not happen in all lines of business, it is helpful in this context where the transaction dollar amounts very large. The disclosure of broker's compensation in the real estate brokerage transaction provides an analogy.

"Should this growing market be impaired due to high and inappropriate claims, the real victims of STOLI could well be those senior citizens who have legitimate needs for life insurance. Thank you."

Representative Pine rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1439, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 49 ayes, with Representatives Manahan and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 954) recommending that H.B. No. 593, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 593, HD 2, pass Third Reading, seconded by Representative Chong.

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 593, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SHORELINE SETBACKS," passed Third Reading by a vote of 49 ayes, with Representatives Manahan and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 955) recommending that H.B. No. 982, HD 2, as amended in HD 3, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 982, HD 3, pass Third Reading, seconded by Representative Chong.

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

"Thank you, Mr. Speaker. With reservations, and just short comments in regards to this bill. Thank you. My concern is just that DLIR is one of the areas in which they were just cut to the bone, and just wanting to preserve them from not having new work, even though I know this is an important issue. Thank you."

Representative M. Lee rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative M. Lee's written remarks are as follows:

Mr. Speaker, I rise in support of this measure. Many family caregivers remain in the workforce, even while providing care to loved ones at home, where they are often the most experienced and valued employees. The ability to take short periods of leave to deal with acute episodes where their presence is needed to provide assistance would enable them to stay in the workplace until retirement, assuring them of adequate retirement benefits. Many now must leave early, making their own retirement uncertain.

"This measure is the first step to building a system of wage replacement benefits for families who are balancing work and eldercare. Before paid family leave is established in Hawaii, data showing the need would be valuable in estimating cost and utilization. Collection of data must apply to both private and public sector employees in order to get a complete picture of what would be required to best help family caregivers.

"Current Family Medical Leave legislation is insufficient:

- Only 55% of all employees are covered and eligible under the Family medical Leave act to guaranteed unpaid family leave for certain medical situations.
- Over three-quarters of those who needed leave but did not take it said this was because they could not afford it.

There is no provision to provide leave to caregivers.

"Paid Family Leave could save money—it is not a budget buster

- Paid family leave could reduce the amount of taxpayer money that goes to welfare, unemployment compensation, food stamps, and other public programs.
- Nine percent of FMLA leave-takers were forced to turn to public assistance to help cover the wages they lost as a result of taking family or medical leave. Of women leave-takers, this percentage was even higher: 12%
- Paid family leave helps employers retain valued employees. Ninety-four percent of leave-takers who were fully paid, (compared with 73.8 percent of those who were partially paid and 76.5 percent of those who were not paid at all) returned to their same employer after taking leave.
- Those who care for family members provide a tremendous economic asset to our state.

"The bill includes private employers and employees in the scope of the collection system. It also includes appropriations from the Disability Benefits Special Fund and changes the expending agency from the University of Hawaii to the Department of Labor and Industrial Relations.

"As our community ages, more people will become caregivers. We need to help them do what they do—and also make sure they are able to build assets for their own retirement. This bill would help us prepare for the future."

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 3, entitled: "A BILL FOR AN ACT RELATING TO FAMILY LEAVE," passed Third Reading by a vote of 49 ayes, with Representatives Manahan and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 957) recommending that H.B. No. 1567, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Chong and carried, the report of the Committee was adopted and H.B. No. 1567, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SKILLED NURSING FACILITIES," passed Third Reading by a vote of 49 ayes, with Representatives Manahan and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 959) recommending that H.B. No. 1098, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1098, HD 2, pass Third Reading, seconded by Representative Chong.

Representative Rhoads rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1098, HD 2, entitled: "A BILL FOR AN ACT RELATING TO GENERAL ASSISTANCE," passed Third Reading by a vote of 49 ayes, with Representatives Manahan and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 960) recommending that H.B. No. 1289, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1289, HD 2, pass Third Reading, seconded by Representative Chong.

Representative Ward rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Wooley rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Finnegan rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1289, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Third Reading by a vote of 49 ayes, with Representatives Manahan and Takai being excused.

At 5:30 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1692, HD 2  
H.B. No. 1439, HD 1  
H.B. No. 593, HD 2  
H.B. No. 982, HD 3  
H.B. No. 1567, HD 2  
H.B. No. 1098, HD 2  
H.B. No. 1289, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 962) recommending that H.B. No. 1693, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1693, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Cabanilla rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Cabanilla's written remarks are as follows:

"The number one quality of life issue for Ewa residents is traffic congestion. This is a fast-growing region, so it is crucial that we ensure that the Ewa Development plan includes important features that will safeguard the infrastructure, open space and environmental and historic preservation of this region."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1693, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WEST OAHU," passed Third Reading by a vote of 48 ayes to 2 noes, with Representatives Berg and Coffman voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 964) recommending that H.B. No. 1538, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1538, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Finnegan rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Yamane rose to speak in support of the measure, stating:

"Mr. Speaker, standing in strong support. Also to support my Vice Chair. 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. 1538, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTALLY-SENSITIVE PRODUCTS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 965) recommending that H.B. No. 1686, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1686, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Sagum rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Sagum's written remarks are as follows:

"Mr. Speaker, I rise in support of HB1686, HD2: Relating to Charter Schools. This bill recognizes the difficulty that non-profits (501-C-3's) and Charter Schools are having in raising funds for facilities or operations.

"This bill also allows the Charter schools greater flexibility to seek additional means of funding besides State general funds. For these reasons, I support the bill."

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

"With reservations and just a few comments. The Charter Schools, when they've been asked about their funding, and how to arrange for it in a better way have just said, 'Why don't we just follow the current law,' which has never happened. So, I'm not even sure exactly what this does, but I would prefer that we actually make the current law work."

Representative Finnegan rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative McKelvey rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1686, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CHARTER SCHOOLS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 966) recommending that H.B. No. 1174, HD 2, as amended in HD 3, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1174, HD 3, pass Third Reading, seconded by Representative Evans.

Representative Berg rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. I rise in opposition, and I would be remiss if I didn't have a few moments to say something about this. Thank you. This is HB 1174, and as I've shared with you before, my concern is setting precedent for the lessor, to the lessee to determine the terms of its lease with the lessor, which is BLNR.

"The more I look into this, the more I am convinced that there is probably something else going on than what meets the eye. And, my basic concern at the moment is that the University has enjoyed \$16 million annually, according to their report from the Board of Regents in 1994, for the benefits of using Mauna Kea. And, in 2001, they admitted to the Legislature that the work conducted on Mauna Kea earned at least \$8 million a year, just from patent lease contracts with defense contractors, with a couple of companies. So, I'm wondering why we need to continue this discussion, because, for 30 years, the University has allowed foreign telescope owners to use State lands on Mauna Kea, for profit, without charging fair market rent required by our Hawaii Revised Statutes.

"In this current bill, at the moment, there is nothing that mentions the comprehensive management plan that was proposed in January of 2009. It seems that this is a very obvious way for the University to gain control of ceded lands. They want to set up a special management fund, that,

although there is an amendment here that was made, gratefully, to allow public participation, or public knowledge in that process. The management fund, according to the Auditor, there's no linkage that exists between the legislative appropriations that go into that fund, and the benefits that are sought.

"In addition, according to the Auditor's report, an estimated revenue and expenditure information regarding this fund is not known at this time. It gravely concerns me that we're willing to push this through, and who knows what the Senate is going to do, or where the Senate is putting this particular measure.

"I really urge my colleagues to be discerning, as this continues, because while on surface, it may seem like it's a good idea to have the University control and enforce and create all of the rules that enable Mauna Kea to be managed correctly, since the BLNR evidently is not doing it, there is more that goes unspoken. And, the ceded lands issue, as we've been talking about, limiting public access, to say nothing about the cultural values. I request the opportunity to insert more comments also. Thank you, Mr. Speaker."

Representative Berg's written remarks are as follows:

"Mr. Speaker, I rise to speak in opposition to HB 1174 HD 2.

"This bill would grant the University of Hawaii explicit authority to adopt rules regulating access to and use of Mauna Kea. Mauna Kea is ecologically significant and culturally sacred lands and with this bill, the Administration is seeking to transfer ceded lands protected by the public lands trust from the DLNR to the UH. It is the exact same type of land transfer deemed illegal by the Hawaii Supreme Court in January 2008 in *OHA vs. HCDCH*. Ceded lands are the lands improperly taken from the Hawaiian Kingdom during the overthrow in 1893 and transferred to the State of Hawaii at statehood on the condition that these lands were held in trust. In addition to violating the Hawaii Supreme Court's injunction against the transfer of ceded lands, this bill would also undermine the State's authority over public trust lands by handing over management authority to the leaseholder. Since when is it good business to allow a leaseholder to determine the conditions of the lease, let alone the use of the leased land?

"For 30 years, the University has allowed foreign telescope owners to use the State lands of Mauna Kea for profit without charging the fair market rent required by the Hawaii Revised Statutes sec. 171-17 and 18. This means that not only has the University profited, but the foreign corporations that own and operate telescopes atop Mauna Kea have also profited from the use of our state lands at the expense of Hawaii taxpayers, while only paying \$1.00 per year in lease rent to the State. Unfortunately, HB 1174 HD 2 doesn't require compliance with State law, payment of back-rent or provide any relief to the taxpayers. In fact, the University is proposing to establish a special fund that would allow the University to divert all of the revenue collected from the use of Mauna Kea lands away from the general fund altogether! Since when is it good public policy to allow one of our state entities to have carte-blanche, with no oversight, on the monies that are in deposited into a State special fund?

"Rather than allow the University to further burden the people of Hawaii, we should require a financial audit of all telescope activity currently conducted on the summit of Mauna Kea. Only in this way can the State accurately assess the value of the University's astronomy program and determine how best to balance the financial needs of the University, the fragile natural and cultural resources of the mountain, the obligation to the tax-payers of Hawaii, and the valid concerns of the Native Hawaiian community.

"I believe, Mr. Speaker, that passing this legislation will be detrimental to the citizens of Hawaii, will undermine the State's fiduciary responsibility to steward the ceded lands of Mauna Kea, and will set precedent regarding the relationships between leasee and lessor that will compromise Hawaii in the long-run.

"For these reasons and others, I rise in opposition of HB 1174 HD2 and ask that my colleagues consider the same."

Representative Chang rose to speak in support of the measure, stating:

"Thank you. In support. I believe we all agree that Mauna Kea, particularly the summit region, is a special place. One of the most culturally, spiritually, and archeologically significant places to Native Hawaiians. It is important to understand the land classification system and agencies responsible for managing the lands to protect the resources.

"Two of the major land designations falling within the jurisdiction of the DLNR are the Forest Reserves and Natural Area Reserve lands. A third classification, the Mauna Kea Science Reserve was created in 1968. Over 40 years ago, when it was removed from the Forest Reserve by the Board of Land and Natural Resources, the Land Board, and leased to the University for 65 years, to be used as a scientific complex.

"Since 1968, there have not been any administrative rules adopted to specifically cover uses within the Mauna Kea Science Reserve.

"The bill complies with the State Auditor's 1998 and 2005 reports calling for the University to develop and promulgate administrative rules to regulate and enforce activities, within the Mauna Kea lands, as it leases from the DLNR, and protects its unique cultural and natural resources.

"That highly critical report spurred the University to develop and adopt the 2000 Master Plan. This plan transferred management of the summit from the Manoa campus to its rightful place, the UH Hilo campus, and its Chancellor. That plan established a new management body, the Office of Mauna Kea Management, whose mandate used to protect and preserve the natural and cultural resources, and sanctity of Mauna Kea. This Board, in turn, is advised on cultural issues, by the Kahuku Mauna Council, made up of members of the community, selected for their knowledge of the mountains management issues, and sensitivity to Native Hawaiian culture, with community input.

"A lot of positive things have taken place since the 2000 Master Plan. The establishment of the ranger program, studies and surveys to establish baseline inventories of resources. In particular, the archeological sites and habitat, and life history of the *wekiu* bug. Most important, the establishment of a community based management agency on Hawaii Island.

"The Mauna Kea Ranger Corp. was established to monitor activities on the mountain and advise visitors regarding appropriate behavior. While these rangers have made a significant difference, this bill would give them the necessary enforcement authority, designed to protect the resources and visitors' health and safety.

"This bill holds the University accountable, and gives an opportunity to work together with the Office of Hawaiian Affairs, in a mutual capacity to protect the cultural resources.

"Today, the University is in the final stages of completing the Mauna Kea Comprehensive Management Plan, and this bill has nothing to do with that management plan that would serve as the guiding framework for protecting and preserving the cultural and natural resources.

Representative Nakashima rose to yield his time, and the Chair "so ordered."

Representative Chang continued, stating:

"The University will be seeking the Land Board's approval for the CMP, which will require the University to carry out a variety of oversight and management functions and responsibilities. Having rule making authority will enable the University to more efficiently carry out these CMP functions and responsibilities.

"This bill also provides a system to establish fees, fines, and other charges related strictly to public and commercial activities, and the direct use of moneys, collected for the management, and protection of Mauna Kea. Just as the CMP is designed to continually evolve and improve the

University's ability to fund any measure or activities to implement such improvements, needs to be assured and preserved.

"Contrary to what some opponents of this measure have said, this legislation does not seek to transfer ceded lands out of the Public Land Trust. It will remain in the public trust, and subject to any future potential claims by Native Hawaiians, or a federally recognized Native Hawaiian sovereign entity.

"Some have also said this legislation allows the University to limit public access. On the contrary. This legislation, and the CMP, on which it is based, proposes to preserve and protect valued cultural, historical and natural resources, including traditional and customary practices, as required under the Hawaii State Constitution.

"There is no provision in this bill, or the CMP, to charge fees to access Mauna Kea or to advocate future telescope development. Simply put, this bill would implement the State Auditor's recommendations and management practices, described in the CMP. This legislation will allow the community greater control to public review and input process of Chapter 901. This bill ensures the Hawaii Island community their rightful voice in establishing rules for protecting one of our island's most sacred and historical treasures."

Representative B. Oshiro rose to disclose a potential conflict of interest, stating:

"Mr. Speaker, may I have a ruling on a potential conflict. At my law firm, I am one of the attorneys representing the plaintiffs that have sued UH and the Board of Land and Natural Resources over there," and the Chair ruled, "no conflict."

Representative Rhoads rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Hanohano rose to speak in opposition to the measure, stating:

*"Mahalo ka ha'i 'ōlelo.*

*"E kū iluna au i ke koho ana no kēia pila no ka hale maka'āinana 'umikūmākahi kanahikukūmāhā, 'A'ole.*

*"O kēia pila e hā'awi Ke Kula Nui 'O Hawai'i ke kuleana no ka hana no ka lula kanawai e pili ana no Mauna Kea no ka po'e āpau.*

*"A'ole pono kēia pila. 'O ke 'Oihana 'Āina Kūpono Kumu Waiwai 'oia hō'ike ke'ena pono i hana ka lula kanawai e pili ana no Mauna Kea. 'O kēia ke'ena 'a'ole lākou e hō'ike ko lākou ha'i mana'o no kēia pila. 'Ua hāmau lākou. No ke aha mai? No lākou no kēia hana lula kanawai no ka mea no lākou ka pau lehia e pili ka mālama 'āina.*

*"E ho'opaipai au iā kākou e koho 'a'ole no kēia pila.*

*"E kūlia kākou i ka nu'u. E ho'omana'o ko kākou ka mana'o i'o, ka mana'o lana a me ke aloha no ko kākou 'āina. Ke Akua pū me kākou i pono ke ea o ka 'āina.*

*"Mahalo nō e Poliahu, ke kahu 'o Mauna Kea. Mahalo."*

Representative Souki rose and stated:

"Yes, Mr. Speaker. Is the former Representative going to be preparing that in English, so that we can understand her? Thank you."

Representative Tsuji rose to speak in support of the measure, stating:

"Mr. Speaker, I am in support of the supporting comments of the Chair of Higher Education, of the 2nd Representative District, in support of the measure. Thank you."

Representative Berg rose and stated:

"Yes, thank you Mr. Speaker. I believe that there was a request from one of the Representatives from Maui for a translation, and I would be glad to provide that translation. Thank you, Mr. Speaker. Speaking from the words of the Representative from Puna:

I rise in opposition for this House Bill 1174. This bill grants the University of Hawaii the authority to adopt rules from Mauna Kea, for all people. This bill is not right.

The Department of Land and Natural Resources is the proper agency to create the rules for Mauna Kea. This agency has not submitted any testimony for this bill. They have been silent. Why? This agency is the proper agency, for they are the experts of land management.

I encourage my colleagues to vote 'no.'

We will strive for the highest. We will remember our faith, hope, love for our land. May God be with us always. And that the life of the land will be perpetuated in righteousness. Thank you, Poliahu, the guardian of Mauna Kea.

"Thank you, Mr. Speaker."

Representative Ward rose and stated:

"Mr. Speaker, in the Finance Committee, there was testimony that said that this is the best place to put it, the best time, because without these rules, administrative procedures, more damage is going to be done to the summit, particularly above 11,000 feet. There would be no denial of access. It would basically be systematizing something that has been too random, and too untoward.

"So, some of the things that were stated, I find that, surprisingly, at least according to the testimony in the Finance Committee, inaccurate. 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. 1174, HD 3, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 39 ayes to 11 noes, with Representatives Belatti, Berg, Brower, Carroll, Hanohano, C. Lee, Luke, McKelvey, Saiki, Shimabukuro and Thielen voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 968) recommending that H.B. No. 901, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 901, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Berg voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 969) recommending that H.B. No. 949, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 949, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Morita rose in opposition to the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Morita's written remarks are as follows:

"Mr. Speaker, I rise in opposition to this measure. The primary purpose of these trust lands is not to advance leases for commercial purposes to non-beneficiary private interest parties to ensure their financial viability. We do not extend States leases beyond the 65 year period without a public auction, so why should such an exception be made for the Department of

Hawaiian Home Lands where the State has an important fiduciary responsibility to native Hawaiians?

"Section 204 of the Hawaiian Homes Commission Act wherein the authority to lease lands to the "general public" is predicated by the statement, "The department is expressly authorized to negotiate, prior to negotiations with the general public, the disposition of Hawaiian home lands or any improvements thereon to native Hawaiian beneficiaries or organization or association owned or controlled by native Hawaiians." It should be pointed out that beneficiaries have advised me that the DHHL has yet to implement the correct priority of negotiating with beneficiaries and beneficiary organizations PRIOR to the general public. Such a priority will drive private interest parties to native Hawaiian beneficiaries and the organizations they control to partner with them, thereby building the capacity intended under section 204. This is procedure is very similar to successful development approaches and lessons learned by other Native peoples.

"Secondly, there has been no evidence or comprehensive financial analysis presented at all, that giving 99 year leases on trust lands advances the financial interests of the trust or its beneficiaries. Simply put, if a developer wants a 99 year lease, or to be positioned for zero risk, they should look for fee simple land, not lands that are a native Hawaiian trust, intended for specific homesteading purposes. If a developer cannot get a reasonable return with 65 years, one questions whether it is a viable venture at all. However, the issue of privatizing Hawaiian homes trust lands is not something to be considered lightly and is an aberration of the State's fiduciary responsibility to native Hawaiians."

Representative Har rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Har's written remarks are as follows:

"Mr. Speaker, I stand in support of Standing Committee Report No. 969, House Bill 949 House Draft 1, Relating to the Hawaiian Homes Commission Act. This bill would stimulate and support commercial development on Hawaiian home lands, that would in turn benefit neighboring residents and the economy, by authorizing the Department of Hawaiian Home Lands (DHHL) to lease Hawaiian home lands for terms of up to 99 years for commercial land developments.

"DHHL's ability to carry out its mission to provide homeownership opportunities to native Hawaiians is directly tied to DHHL's ability to generate income. Over the past 5 years, income generated by DHHL through commercial leases has supported DHHL's homesteading program. The current 65-year term has limited DHHL's ability to attract substantial investment in the proposed commercial lease properties. This bill increases the value of DHHL's property and provides an improved tool which DHHL can use to ultimately better serve its beneficiaries. For these reasons, Mr. Speaker, I stand in strong support. Thank you."

Representative Belatti rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 949, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Hanohano, Morita and Saiki voting no, and with Representative Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 971) recommending that H.B. No. 993, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 993, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Marumoto rose to speak in opposition to the measure, stating:

"Mr. Speaker, I'm in opposition, and I'd like to speak against this measure. We've had this constitutional amendment for 30 years now, and I think it's held us in good stead. It returns excess funds to the taxpayer, and I think we should remember that the taxpayer's money is essentially their money, and it's not really our money. I think they could use the excess funds, now more than ever, since the economy is not that healthy.

"We should not get rid of this amendment, just because the economy is bad now, and we want to be able to keep some of the money. We must remember that the Legislature determines how much is to be returned, and this year, because times are not so good, we are giving back probably only a dollar.

"But, we really should not 'throw out the baby with the bathwater'. I think that there will be good times again, when we can return the money to the taxpayers, rather than putting it into a fund for our use. So, please consider it really excess funds being owned by the taxpayers, and not necessarily by us. Thank you."

Representative Rhoads rose to speak in support of the measure, stating:

"Mr. Speaker, in support. The problem I see with the current system is that everything we do, the government spending just reinforces the natural business cycle. So, when the natural business cycle is going well, and we're collecting a lot of revenue, we spend a lot of revenue, and as a result, the boom is bigger. Then when we get to the end of the boom, which we inevitably do, because the laws of economics are like the laws of gravity, eventually there's a result from whatever you do or don't do, you crash into a recession, and then we start losing revenue, and we reinforce the recession by not spending as much.

"If we didn't spend as much at the top of the cycle, it would help to keep the bubble from blowing up any bigger than it should. And then on the way back down, when the recession goes down, we'd be able to spend money that we saved. And, in this instance, there's been a couple different versions of this bill already put out there, but if we had kept more money back, we could have probably seven or eight hundred million dollars more to spend right now, and we're \$1.1 billion behind. Well, a \$300 million gap is a lot easier to cover than a \$1.1 billion gap. And the fact is, it would be good for the economy right now, if we had \$800 million to spend.

"So, in our personal lives, it's a good idea to save some money for the hard times, when the things are going well. At the government level I believe the same is true. Mahalo."

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

"Mr. Speaker, I rise with reservations. Mr. Speaker, I know this is not an economics debating club, but I think the Representative from Chinatown has to understand that the economy is run by those who consume. 70% of our economy is consumption. If this bill takes money out of those consuming, the 10% or 15% that runs from the government is not going to do it. In fact, I think we've got to get away from the notion that government spending is going to get us out of this crisis. It's going to stimulate spending, but that's the whole purpose of it, is to get money back into the hands of those who make the 70% of the economy. That is the whole liquidity argument of why we're spending a couple of trillion dollars at the federal level. Every country has got a stimulus package. It's to get people to loosen up on their money, and have their jobs to keep spending to keep economies going. That's the way economics work.

"But when government takes it, parks it, doesn't circulate it, and even when they do circulate it, with the stimulus packages that we're doing, they don't have enough to keep that 70% of the economy pumping along. And that's where this Body has to be very sensitive to do, is not to take money out of the hands of those 70% of the consumers, because the consumers are the saving grace of the economic downturn that we're in, Mr. Speaker. Thank you, very much."

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

"Mr. Speaker, standing in strong support, and would like to make a few points on this bill. Number one, the bill proposes to change the Constitution so that we can guarantee at least 1% of excess revenues will go back to taxpayers, as a tax-free fund, or a rebate.

"Number two, the bill would also make sure that any excess general fund balance, over 70% will be deposited into our Rainy Day Fund to make sure that we are prepared for economic downturns or other emergency needs, such as we are currently experiencing.

"And, number three, we also amended the bills to propose the idea of a cap of the amount that would go into the Rainy Day Fund. And, on that particular issue, Mr. Speaker, I suggest that we set a cap at an amount that would assure the protection of a State's credit rating.

"And, number four, for example a 5% cap, based on expenditure levels, would assure the Rainy Day fund should be at least \$250 million. Thank you."

Representative Finnegan rose in support of the measure with reservations and asked that the remarks of Representative Ward be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative Rhoads rose to respond, stating:

"Mr. Speaker, still in support. Just in rebuttal to the Representative from Hawaii Kai. I do think this is actually, in many respects, a good place to debate economic policy, because obviously, the economy has a huge impact on how people live.

"I would just say that, with regards to the stimulus package, yes, I understand State government, I don't even know if it's the biggest employer in the State, but it's one of the biggest. And, when one of the biggest employers in the State starts threatening to lay people off, or furlough them, that does have a negative impact on the economy. It's as if, when the hotel industry goes 'into the drink', yes, that has a big impact.

"So, I would say, we're working with stimulus packages, one of the big criticisms of the federal stimulus package is that it's borrowed money. This bill would allow for it not to be borrowed money, which would make it an even better situation. Mahalo."

Representative Ching rose in support of the measure with reservations and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in support however, with reservations of H.B. 993 – I am concerned decisions regarding general funds should be considered for their impact on the general fund balance and not simply on the basis of projected revenue growth of one fiscal year.

"While proponents of this measure state the possibility that the capacity to generate revenue is strong, the State should save the surplus for use when revenue generation is weak. Passage of this constitutional amendment will provide more flexibility to access needed funds to balance the budget. Thank you."

Representative Ward rose to respond, stating:

"Mr. Speaker, a brief retort. 85% of the people of Hawaii work for the private sector. The biggest employer is the private sector. Government, even at its peak would not be more than 20%. And, the problem with the federal stimulus, is not the amount of money, even though that would go back to the argument, it's not enough to kick it, to make it go strong. It's that the federal stimulus is not going to create wealth, it's filling *pukas* in State government, and other unpaid bills, which are not going to create jobs, other than temporary ones. Then, if we look at what the FDR Conservation Corps jobs were, they were to fill *pukas*. And, that's so the other part of the economy, the private sector, which hires the majority of

the people in this country, can get on their feet, invest in some machinery, get their markets going, and get the economy going again.

"So, the private sector is really where the key is, instead of saying 'Well, it was the Second World War.' Well it was the Second World War that then pulled all the jobs out in the private sector. Thank you, Mr. Speaker."

Representative Pine rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 993, HD 2, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO THE HAWAII CONSTITUTION, RELATING TO THE DISPOSITION OF PROJECTED EXCESS REVENUES," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Marumoto voting no, and with Representative Takai being excused.

H.B. No. 993, HD 2 passed Third Reading in the following form:

#### **H.B. No. 993, HD 2**

A BILL FOR AN ACT PROPOSING AN AMENDMENT TO THE HAWAII CONSTITUTION, RELATING TO THE DISPOSITION OF PROJECTED EXCESS REVENUES.

#### **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

SECTION 1. The purpose of this Act is to propose an amendment to the Hawaii Constitution to require the legislature to return a specific amount of revenue as a tax refund or tax credit to taxpayers and to deposit a specific amount into the emergency and budget reserve fund whenever general fund revenue estimates exceed seven percent growth for two consecutive years.

SECTION 2. Article VII of the Hawaii Constitution is amended by adding a new section to be appropriately designated and to read as follows:

"Section . In any regular session during which the council on revenues estimates, prior to adjournment sine die, that for the second consecutive year, general fund revenues in the current fiscal year will exceed the general fund revenues collected in the prior fiscal year by at least seven percent, the legislature shall set aside:

1. An amount equal to one percent of general fund revenues collected in the prior fiscal year as a tax refund or tax credit to the taxpayers of the State, as provided by law; and

2. Moneys exceeding seven percent of the amount by which revenues in the current fiscal year are estimated to exceed revenues in the prior fiscal year, for deposit into an emergency and budget reserve fund as may be provided by law; provided that no deposit shall be made if the balance in the emergency and budget reserve fund is equal to or greater than percent of general fund expenditures for the prior fiscal year."

SECTION 3. The question to be printed on the ballot shall be as follows:

"Shall the legislature, during any regular session in which the general fund revenues are estimated, for the second consecutive year, to exceed by at least seven percent the general fund revenues collected in the prior fiscal year:

- (1) Set aside one percent of the excess revenues as a tax refund or tax credit to taxpayers; and
- (2) Deposit into an emergency and budget reserve fund the excess revenues above seven percent?"

SECTION 4. New constitutional material is underscored.

SECTION 5. This amendment shall take effect upon compliance with article XVII, section 3, of the Hawaii Constitution.

At 5:58 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1693, HD 1  
H.B. No. 1538, HD 1  
H.B. No. 1686, HD 2  
H.B. No. 1174, HD 3  
H.B. No. 901, HD 2  
H.B. No. 949, HD 1  
H.B. No. 993, HD 2

At this time, Representative Berg rose and stated:

"Mr. Speaker, I believe my 'no' vote for Stand. Com. 969 was not mentioned."

The Chair responded, stating:

"It's too late. The vote has been recorded already."

At 5:58 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 5:59 o'clock p.m.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 972) recommending that H.B. No. 952, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 952, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Marumoto rose to speak in opposition to the measure, stating:

"Mr. Speaker, I'm in opposition to this particular measure. This is a card check bill. Here we are, once again debating the merits of card checks, and no matter what changes we make to it, the problem remains the same. It robs workers of their essential right to a secret ballot. How can we continue to deny the importance of this right, for it is in the privacy of the voting booth where a person is free to express his or her will, without being subjected to intimidation or fear from reprisal. It's the best way for a person to register his or her opinion.

"In doing some research on this issue, I ran across an editorial against card check, by former Senator and former Democrat Presidential nominee, George McGovern. Throughout his career, Senator McGovern has been a passionate defender of unions. Yet, he has found the card check bill fundamentally wrong. In an editorial, he said of card check, 'I am sad to say it runs counter to ideas that were once at the core of the labor movement. Instead of providing a voice for the unheard, it risks silencing those who would speak.'

"It is not just Senator McGovern who finds this bill deeply flawed. The testimony against it represents a clear outcry against the measure. Testifiers from a wide range of industries clearly showed an objection to the very idea of the elimination of the private ballot.

"This objection goes on to our local media. Today, the *Advertiser* editorialized against card check, stating, 'Reforming the system to protect against abuses may be necessary, but taking away the secret ballot isn't the answer.'

"The nation objects to it as well. A national survey, taken on the federal card check bill found that three out of four voters oppose this. Even union

households oppose this bill, with 74% opposing, to just 20% supporting. We should listen to their voices, and vote 'no' on this bill. Mahalo."

Representative Sagum rose in support of the measure with reservations and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Sagum's written remarks are as follows:

"Mr. Speaker, I vote with reservations on HB952, HD1: Relating to Labor.

"The Employee Free Choice Act ("EFCA") as currently written has two primary provisions. The first changes the method by which employees decide whether or not they will be represented by a union; the second mandates binding arbitration over the terms of a first contract, if one is not reached a few short months after recognition of the union as the bargaining representative. These provisions are extreme and unnecessary. More important, they will adversely affect employees' rights, as well as result in economic harm to both employers and employees.

"In its revised HD1 form, the bill provides for a streamlined process of an exclusive representative, would only apply to businesses with 100 or more employees, would facilitate the collective bargaining process and provide for the settlement of disputes by an arbitration panel.

"While federal labor law may not be perfect in other respects, I believe its establishment of a supervised secret ballot election as the means by which employees indicate whether or not they wish to be represented by a union is a staple of our democratic society and of critical importance to employees. A secret ballot election allows employees to vote in a confidential, uncoerced, and supervised setting. Employees are able to vote their conscience, in private, without fear of any personalized repercussions from the union or the employer.

"Furthermore, it was my initial understanding that this bill would apply only to agricultural industries and in fact, all business with more than 100 employees will be covered by this bill, which adds to my reservations.

"Thank you, Mr. Speaker."

Representative Ward rose to speak in opposition to the measure, stating:

"Mr. Speaker, I rise as a minority, for a minority. That is, the card check, may I proceed? I am against the bill, clearly. I rise as a minority, speaking for the minority of the card check bill. The card check bill will have 50% plus one. If signed individually and collectively then counted, the company would become unionized. In this case, likely to be the agricultural workers, who are doing either macadamia nuts, or the seed, or the other hybrid seed-corn processing

"What happens to those 49% who didn't vote? One of the fundamental basis of unionization, was to keep recrimination of the employer out of the workplace. To protect employees. Now, everybody has their vote bared. Everybody can see how people voted.

"What happens to those of the minority? Is there something to protect them? In this case, the secret ballot protects them, because when it's unionized, everybody moves as a group. Everybody's equally responsible. Everybody is equally culpable of what they have done. And, Mr. Speaker, no one has doubted that unionization has had a great impact in Hawaii. It has much impact on this Floor. Unions are strong in Hawaii, in fact, probably one of the strongest in America is here.

"But the wave of agriculture, the wave of plantation agriculture is over, Mr. Speaker. To get these small guys, that are basically exporting seed-corn and otherwise, not that big of an industry. Why did we want to do this, and why do we want to do it now? That is the question. This is not a good bill for the policy, for the future of agriculture, which we're trying to stimulate, and make our prices affordable to the people of Hawaii, because they're so expensive when they're grown locally. This will even add to that cost, Mr. Speaker. Again, I think of the benefits. Thank you."

Representative Rhoads rose to speak in support of the measure, stating:

"Mr. Speaker, in support. First of all, this measure does get to the philosophical level pretty quickly. If you look at the U.S. Constitution of course, the Right of Association is constitutionally guaranteed. It's implied in the First Amendment rights for free speech. And also, the right to unionize is specifically mentioned in the Universal Declaration of Human Rights, in Article XXIII, everyone has the right to form and join trade unions.

"So, what we're really talking about is, how do we protect that right, and how do we regulate that right, which, of course, constitutional rights are not absolute, and we have to figure out how we're going to actually do them.

"But, it seems to me that the arguments against this mainly boil down to one essential argument, and that is that unions will browbeat people into joining unions, if any of it is open. And, I think that the empirical evidence, at this point, is just not with that side of the argument. The empirical evidence is that employers are the ones who are browbeating people to stay out of unions, because they don't want to have to share power with the workers. I think probably in the long run, it's bad economic policy because employers who do share power with their workers generally have a better idea of what's going on on the shop floor, get better feedback from their employees on what to do better or different to make a better product or provide a better service.

"But I also say that this bill, as amended, only applies to employers who have 100 or more employees. Those small companies that the Representative from Hawaii Kai mentioned are the likes of Monsanto or Syngenta, these multi-national companies that have a relatively small presence in Hawaii, but they have enormous bargaining power when it comes to dealing with our Hawaii residents.

"I don't think that that's a particularly strong argument. Mahalo."

Representative Ching rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. In opposition. Thank you, Mr. Speaker. I rise in opposition to this card check bill. I find this measure particularly harmful to the agriculture industry, as its' workers are vulnerable to misleading verbal or written explanation due to language barriers. A study undertaken by the National Agriculture Statistics found that the most prevalent language among our workers is 89% Ilocano. Of these, the workers comprehend English verbal instruction, but only 59% may comprehend written instruction. Among all agricultural workers, 87.9% can understand written instructions in their first language, while just 71.3% can understand written instructions in English.

"On the surface, some of these numbers may seem high, but they are still too low. Labor organizing drives rest upon the full understanding of workers participating in elections. These workers need to understand all the benefits and costs that come with unionization. I'm afraid that by eliminating the secret ballot, the workers may not understand the full implications of the card that they sign. This will undermine their ability to make well-thought out decisions based on what is best for them.

"An additional problem is that this bill could force companies to let government arbitrators make business decisions about their workforce. If there is one industry in Hawaii where this is not necessary, it's the agricultural industry. The Department of Agriculture reports that Hawaii's farm workers are already the highest paid in the entire country. This is despite the disadvantage that Hawaii already has in terms of cost and availability of land, water, transportation costs, and the affect of invasive species. This bill will lessen the opportunity for ag workers through adding an additional burden that will only set back Hawaii's efforts to become more self sufficient in food production, and in the long run, result in the lessening of opportunities for our agriculture workers.

"Mr. Speaker, this is the bicentennial of President Abraham Lincoln who stood for freedom. Freedom is the freedom to choose; not to have secret ballots. Thank you."

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

"I'd like to speak in support of the measure. Mr. Speaker, with the federal stimulus package underway, we need to focus on the rebuilding of our economy. Unions are one of the best tools for creating an economy that works for everyone. There's a disturbing trend in the country that has led to the erosion of healthcare coverage and pension security. Coupled with rising food costs and foreclosure anxiety, a stable workforce is a formidable goal, and working people are bearing the brunt of today's troubled economy.

"Across the country, union membership has decreased, partly due to an election process that vests the majority of power in the employer and often opens the door to intimidation and threat of job loss. The Employee Free Choice Act is a way to restore a fair and equitable process for employers and employees, rebuild the labor unions, and in turn, rebuild the middle class.

"The majority sign up process is not new. In fact, a number of major companies such as AT&T Wireless and Kaiser Permanente have long recognized it as a fair, less disruptive process to determine workers' will. It simply provides workers with another option to express their desire to self organize. The growing inequality we see between employer and employee is a backward trend that will take more than economic stimulus to address. This bill applies only to companies with 100 employees or more. If passed it will level the playing field by restoring employees' choice to form unions and bargain for fair wages and benefits. Thank you, Mr. Speaker."

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

"Thank you very much, Mr. Speaker. With reservations. I'd just like to respond to a couple of comments made today on the Floor regarding agricultural workers and perhaps their inability to understand English, and whether or not they can fully grasp the concept of unionization. I think we just have to look back at our own history. For those of us who were around, I wasn't actually. But in 1946 there was a sugar strike where the ILWU organized 28,000 sugar workers in the State of Hawaii. And in the following year, in 1947, 20,000 pineapple workers were organized. The vast majority of these workers did not speak English as their first language, and in fact, it was a conscious policy of the sugar plantation owners and the pineapple plantation owners to import labor from many countries, specifically to divide and conquer that work force. Three generations of workers tried to organize and were constantly divided up. They were paid different wages according to their race, and so on. That resulted in the inability of the workforce to organize. It wasn't until the mid-1940s that finally the ILWU pulled it off. I would assert, Mr. Speaker, that that has led to the growth of the middle class with these ag workers. And it has led to a better life for tens of thousands of families in Hawaii and their descendants.

"Now when we talk about intimidation by the union, relative to the employer, I think we all realize that the 'big stick' that any employer has over any employee is their job. It's very difficult for any union to threaten to fire a worker when in fact that union has no ability to do that, as opposed to the employer. Indeed, in the study done by Cornell University researcher, Kate Bronfenbrenner, she concluded that 92% of private sector employers, when faced with workers who wanted to join a union, they hold these one-on-one meetings. And if any of you who have ever done union organizing, I remember years ago when I was a young lad, I was trying to organize the Halekulani Hotel when they reopened, that's precisely what happened. There were group meetings, one-on-one meetings, encouraging workers that they really don't need a union. Actually I had to point out that indeed the choice of whether or not to have a union should be done by the workers.

"Frankly, Mr. Speaker, all this bill does is to shift the choice between having a secret ballot election, or a card check. As was mentioned by the Representative from Mililani, many employers opt for the card check option which is allowed under the National Labor Relations Act. This bill would merely shift that choice from the employer, to the employee. It seems to me that if workers want to have a choice of having a secret ballot

election or a card check, it should be their choice and their choice alone. Thank you, Mr. Speaker."

Representative Herkes rose to speak in support of the measure, stating:

"Thank you. In support. It would be hypocritical of me to vote against this bill because with Interisland Resorts, we asked the ILWU for card check. We wanted to be organized by the ILWU because they gave us employment stability on the Neighbor Islands. Thank you."

Representative Takumi continued, stating:

"Mr. Speaker, in my haste, I forgot to mention why I am standing with reservations. The bill was amended in the Finance Committee to apply only to companies with more than 100 employees, and as we know, this bill would only apply to ag workers in that situation. Frankly, it would only apply to two or three companies in the State of Hawaii. Less than 2% of companies in Hawaii have more than 100 employees. Thank you Mr. Speaker."

Representative Finnegan rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Pine rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 952, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LABOR," passed Third Reading by a vote of 37 ayes to 9 noes, with Representatives Chang, Ching, Finnegan, Har, Marumoto, Pine, Thielen, Tokioka and Ward voting no, and with Representatives Awana, Berg, McKelvey, Takai and Wooley being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 973) recommending that H.B. No. 981, HD 1, as amended in HD 2, pass Third Reading. \*

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 981, HD 2, pass Third Reading, seconded by Representative Evans.

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

"This is the ignition interlock bill. I'm in favor of this measure, and in passing it, I just wanted to salute Mothers Against Drunk Drivers, MADD, who have been working for this interlock device for at least 20 years, I'm certain. I can recall Attorney General Warren Price in the 1980s assisting MADD with their legislation. I give them credit for their persistence. They have been lobbying here for quite a while and they have been very effective. If there is less carnage on our roads, we must thank them for that. Thank you, very much."

Representative Har rose to speak in support of the measure, stating:

"In strong support, Mr. Speaker. Mr. Speaker, just very quickly, I want to thank the Chair of Transportation and the Chair of Judiciary. As Members of this Body know last year, in the 2008 Session, we did pass Act 171 which created the basic framework for the ignition interlock. Act 171 also created the Ignition Interlock Task Force of which the Speaker Emeritus and I were also a part of. We came together with many members and many stakeholders in the community, including Mothers Against Drunk Drivers, including the Attorney General's Office, including the Public Defender's Office, including the ADLRO. We had many stakeholders involved in the Task Force. This bill essentially codifies the recommendations of the Task Force.

"I want to thank the Members of this Body who have been very supportive because I truly believe that the ignition interlock is going to save lives in the State of Hawaii. I would also like to request permission to submit additional written comments into the Journal. Thank you."

Representative Har's written remarks are as follows:

"Mr. Speaker, I rise in strong support for Standing Committee Report No. 973, House Bill 981, House Draft 2, Relating to Highway Safety. As this body recalls, we passed Act 171 in the 2008 Legislative Session to implement the framework for the ignition interlock device to combat the problem of drunk driving in the State of Hawai'i. Act 171 further created the Ignition Interlock Implementation Task Force, which developed recommendations for the implementation of ignition interlock. This bill represents the recommendations of the taskforce. The Ignition Interlock Task Force was comprised of an inclusive group of stakeholders including, but not limited to the Department of Transportation, the Department of Health, the Department of the Attorney General, the Judiciary District Court, the police departments from each county, the Office of the Public Defender, the City & County of Honolulu Department of Motor Vehicles, the County of Maui Department of Motor Vehicles, the University of Hawai'i, Mothers Against Drunk Driving (MADD), the Office of the Prosecuting Attorney from each county, the Administrative Driver's License Revocation Office, and the Legislature.

"Notably, this measure will make mandatory installation of the ignition interlock for all drunk drivers, including first-time offenders. Other penalties will include revocation of a driver's license and privilege to operate a vehicle for at least a year, and will require installation of an ignition interlock device on any vehicle operated by the person, with the cost of installation, maintenance, and calibration paid for by the offender. In addition, there will be a requirement for community service work, prison time, and a fine. Repeat offenders would receive heightened penalties.

"What our State needs is a change of mentality towards drunk driving. Among other things, we must be individually responsible by drinking within limit and urge others to drink responsibly. We also need ignition interlock to change the mentality towards drinking and driving. This bill was introduced as a part of the majority package, and I thank all members for support of this measure, and urge your continued support of this bill. Thank you, Mr. Speaker."

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

"Yes, Mr. Speaker. I would like to speak in favor of this measure. First of all I would like to thank Representative Har for all the work she has done in working with this bill. She sat in long hearings during this interim period, and in long meetings with the Committee in trying to develop legislation, sharing ideas on how best to put the package together, and then ultimately writing this package. This bill should save a lot of lives, and still allow people to go to work and serve their family. Members, I ask you to please support this great bill. 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. 981, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," passed Third Reading by a vote of 46 ayes, with Representatives Awana, Berg, McKelvey, Takai and Wooley being excused.

At 6:22 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 952, HD 1  
H.B. No. 981, HD 2

### THIRD READING

#### H.B. No. 520, HD 1:

Representative B. Oshiro moved that H.B. No. 520, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I just want to note my reservations. I'm in support of the basic idea of photographing historic buildings. I think where we went wrong, I guess it was last Session, was that we required that these incredibly expensive photographs be taken. I think in the age of digital cameras we can fix the problem pretty easily by simply requiring that an acceptable photograph be taken, but it doesn't have to be of studio quality. Mahalo."

Representative Cabanilla rose to speak in opposition to the measure, stating:

"I stand in opposition to this measure, Mr. Speaker, which repeals the amendments in Act 228 wherein we were only required to take pictures of historical buildings before demolishing them. I supported this bill when it came up last year. I thought it was a very simple measure and we're totally repealing it now. We could have saved it through the amendments of the Historic Foundation of Hawaii which limits it to historical buildings.

"We could have worked on this bill Mr. Speaker, instead of totally repealing it. Hopefully when it crosses over to the Senate, we can have a measure to revive it rather than repealing it. Thank you."

Representative Ching rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. In opposition. As one Member of this House put it, it's not good to make it such a black and white issue. The truth is, it's gray. We just need to, instead of completely repealing it, and I will not go so far as to say, it obviously needs some revision. The fact is that it's a good idea. To completely reverse it, I contend that it's not a good idea. The Historic Hawaii Foundation says in its testimony that this bill goes well beyond the scope and would undermine the other powers and responsibilities related to State and county mandates to protect historic sites.

"With all due respect to the contractors who I appreciate, who I have worked with, and who I know, the fact is that this is something that can be fixed. We don't need to completely throw away something that is important. Hawaii is known to be not quite like other areas where there is a longer standing and appreciation for historic preservation, there are obvious protections. These things dovetail with tourism. What comes to mind are all the historic places. When you think about where you'd want to travel. The fact is overall, on the globe, the number one place that people want to travel to, over time, not just 2006, is Paris, France. Paris, France understands the value of historic preservation. You would not knock down the *Arc de Triomphe*. You would not knock these things down. What we're doing is just saying, to begin with, that historic preservation is important. It's not just important to our economy for tourism to have a charming place. But it's important to our children because then they can say, 'Wow, is that what it looked like? Is that it was like?' Our good Chairman of Education mentioned about history and the plantation experience. Well that's what a lot of these homes happen to be. They're tools.

"Just one last thing that I'm going to say. I was one of the first people in a lot of my circles, to speak up for the environment in 1980. I remember what it was like to be an environmentalist in the 1980s. You were called a 'tree hugger.' You were called, 'not too with it.' You were not aware. Well it amuses me because I know how green we've become. That's where historic preservation is today. People understand that these places are like extinct species. Things that you can't replace. In some cases, the materials don't exist. The wood doesn't exist anymore. The know-how, the craft. We're in a different economy. You can't rebuild some of these things, but at least, what this says is, take a picture. And as the good Representative of Chinatown said, we're going to change that. We're not going to make it so difficult. We understand. Yes, there were mistakes, but we don't need to repeal the bill. Thank you."

Representative Carroll rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Thielen rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. I rise in strong support of this bill. Thank you. There were about 53,000 structures that fell under this bill, and the chaos that it has created for the construction industry has just been massive. There really isn't a bill that's higher on the list that they want to see passed this Session. The whole system clogged down. There were 53 houses. Anything that was happening to a house, no matter what, it would be referred by the City to the Historic Preservation Division, which many times was not even open because they aren't staffed with that many people there. Everything clogged down. So the best way to do it is the way that this bill does it. Repeal the law. Pull together the affected parties. Come back with something that makes sense to have photographs taken of only the structures that really would be eligible for listing on the State or national register, or that actually are on the State or national register. But this was so much overkill, and it did so much damage to our economy at a time when we can't afford to have that damage to be done. Thank you."

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

"Thank you, Mr. Speaker. In support with some reservations. I know that we have to make some amendments, but if we ever lose buildings like the Cooke home in Manoa, the Honolulu Academy of Arts, various buildings designed by Vladimir Ossipoff, we will have lost a significant part of our history. Sixty years ago, I did my senior theme on historic architecture in Hawaii. On a personal note, a number of buildings designed by my grandfather are historic sites. Thank you."

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

"Thank you, Mr. Speaker. In support with reservations. I'm in support just because we need a vehicle to deal with this issue. The answer isn't repealing it; it's fixing it. There was a lot of good testimony that came in, and key stakeholders have been meeting and making suggested amendments. We just haven't put them in the bill."

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

"Yes, in support with reservations. I would like to use the words of the Representative from Kauai as my own. I just want to thank the Representative from Liliha for being so innovative and helping us to try to have a little bit more passion about this area. Thank you."

Representative Belatti rose in support of the measure with reservations and asked that the remarks of Representatives Rhoads and Morita be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative C. Lee rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Berg rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Bertram rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and H.B. No. 520, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BUILDINGS," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Cabanilla, Ching and McKelvey voting no, and with Representative Takai being excused.

#### **H.B. No. 361, HD 1:**

Representative B. Oshiro moved that H.B. No. 361, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Cabanilla rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Cabanilla's written remarks are as follows:

"Lengthy delays of permit processing is making the development of affordable housing very difficult. This bill requires non-discretionary, ministerial permits for affordable housing projects be processed within 45 days by the State or Counties or be deemed approved.

"Time is money. Delays contribute to higher cost of affordable housing."

The motion was put to vote by the Chair and carried, and H.B. No. 361, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AFFORDABLE HOUSING," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

**H.B. No. 1186, HD 1:**

Representative B. Oshiro moved that H.B. No. 1186, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Cabanilla rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Cabanilla's written remarks are as follows:

"While receiving cash-in-lieu from a developer for affordable housing is helpful, it is of paramount importance for our communities to be mixed income integrated. We do not want the development of 'golden ghettos' with reciprocal 'project ghettos'. If developers are allowed to build the affordable portion of their development in a different area than the market portion, or merely contribute cash-in-lieu, it will affect our housing and hence, community and social structures."

Representative Finnegan rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and H.B. No. 1186, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING DEVELOPMENT," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

**H.B. No. 382, HD 1:**

Representative B. Oshiro moved that H.B. No. 382, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Marumoto rose to speak in opposition to the measure, stating:

"Mr. Speaker, I will be voting no on this bill. It requires notification of pending class action against the State, and the notification will go to the Governor, the President of the Senate and Speaker of the House, prior to the filing of the lawsuit. It requires service of the lawsuit to the President and the Speaker, mandates the complaint remain under seal for at least 60 days after service upon the Attorney General.

"It is unclear to me what the Governor, Speaker and Senate President are expected to do once the class action notification is made. It's not logical for the Governor not to receive supporting and exculpatory materials when the Governor is served just like the presiding officers.

"This bill may violate the Separation of Powers Doctrine. If the intent is to have the Legislative Branch resolve the matter prior to filing the lawsuit. If this is meant to be kept confidential, reference to keeping everything under seal is not expansive enough. I think this is a very strange bill, and I'm not sure what it is supposed to accomplish. I would hope that the introducers could explain it to me. Thank you."

Representative Finnegan rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. I will also be voting in opposition. I have some of the same questions. I'm just wondering. Our whole purpose for being here as a part of the Legislature is to take a look at a piece of legislation and say, 'What does this solve? Or what is the need for it?'"

This is another bill that does not have any testimony in support. It just has one piece of testimony in opposition, Mr. Speaker. I'm just perplexed as well."

Representative Belatti rose in opposition to the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Belatti's written remarks are as follows:

"Mr. Speaker, I rise in opposition to HB 382, HD 1. This bill would require class action plaintiffs to send written notification of their intentions to the Governor, Senate President, and Speaker of the House of Representatives prior to filing of their class action lawsuit. This bill would further require that all relevant supporting and exculpatory materials in the possession of the class representative or its counsel be submitted to the Senate President and the House Speaker. Although this bill is well-intentioned, it may impose some impractical burdens on class action plaintiffs who most likely have gone through the administrative agency hearing process, alternative dispute resolution process, and legislative committee hearing process to have their problems resolved. It may also be impractical and overwhelming for State legislators to be recipients of supporting and exculpatory materials that may be voluminous in a class action lawsuit. For these reasons, I oppose HB 382, HD 1."

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

"Mr. Speaker, I'm rising in support. The intention of this measure is to avoid the situation when you wake up one morning and you pick up the morning paper and you find out the State of Hawaii is being sued by a group of attorneys on behalf of the rights of their clients who live in public housing. I'm making reference to Kuhio Park Terrace, Mr. Speaker. That's what the measure tries to address.

"The idea being that should we have known that the Hawaii Public Housing Authority was so deficient in the maintenance of Kuhio Park Terrace, and that they were not up to date on the fire alarm systems, or the federal or State laws regarding the rights of the disabled, the handicapped, and the poverty community, we might have been able, through the legislative process, to inquire as to the responsibilities of the agency, and maybe perhaps appropriate the necessary funds so that the timely repairs of the elevators and the garbage disposal shafts and the security system could have been made to comply with federal and State law.

"As it turns out, Mr. Speaker, I believe that the parties have finally settled down and are looking to reach a settlement. At the end of the day, it will come back to this Branch to pay for that settlement on behalf of our taxpayers.

"I just thought this would be a vehicle to have this discussion by which we might be able to get in front of these lawsuits, should the Executive Branch and agencies not be able to fulfill their obligations under law, but be deficient and cause these lawsuits to occur. Thank you."

Representative B. Oshiro rose to disclose a potential conflict of interest, stating:

"I would like to ask for a ruling on a potential conflict. My law firm is one of those attorneys that was referenced who are suing the State over this, but I am not involved in that case. Thank you," and the Chair ruled, "no conflict."

Representative Finnegan rose to respond, stating:

"Thank you, Mr. Speaker. Okay, this is great. At least I know what this bill is about. Mr. Speaker, I still have concerns over this because this is for one particular incident. And then on top of that, I remember we were discussing the budget, and I remember discussing the elevators a few years back, and I'm just trying to recall this debate. So, what this means is that these agencies were in front of us, telling us about the deficiencies at these properties, and we addressed it the way we addressed it.

"Mr. Speaker, sometimes lawsuits are when people start to move, I guess. But I don't know that, still, having a bill for this particular instance, talking about deficiencies. I remember us discussing this very thing having to do with public housing and needing to work on it, and needing to get these things done. Thank you."

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

"Yes, in support with reservations. I just wanted to add that the Minority Leader is correct. We did discuss this at the Legislature. In fact the Governor put in her budget many improvements, especially for elevators for the State housing, and the Legislature rejected that request. Thank you."

Representative Evans rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. I rise in support. I think it's a prudent thing for the legislative body to get this information requiring notification of pending class action against the State. I think the legislative body really needs to understand what's coming at them. And also needs to understand what the departments are doing and why the class action came into being. It's our job to review all the programs. Each Chair in this Body looks through their budgets, looks at their programs and divisions, and determines what their needs are. This is just good information. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 382, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE TORT LIABILITY," passed Third Reading by a vote of 45 ayes to 5 noes, with Representatives Belatti, Ching, Finnegan, Marumoto and Rhoads voting no, and with Representative Takai being excused.

At 6:40 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 520, HD 1  
H.B. No. 361, HD 1  
H.B. No. 1186, HD 1  
H.B. No. 382, HD 1

#### **H.B. No. 147, HD 1:**

Representative B. Oshiro moved that H.B. No. 147, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Ching rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. I rise in opposition to HB 147. Thank you. This bill seeks to change the minimum value of property or services stolen to constitute theft in the second degree from \$300, to a blank amount. The original version of the bill increased the amount to \$1,000. Mr. Speaker, this sends the wrong message to those who would steal from our small businesses. If we are looking to increase the threshold amount to charge second degree theft, we are basically giving people license to steal more before stiffer penalties accrue.

"Besides rewarding criminals, this hurts our small businesses. That is borne out by the various retailers that testified in opposition to this bill. I would like the names of those businesses incorporated into my remarks, if you please.

"The worst offenders under this law, the professional thieves, already know the law and how to work within its limitations. Many retailers fear this means more goods stolen. Mr. Speaker, we are trying to help our businesses, our employers, by stimulating the economy. We want to be pro-business because it's pro-economy, it's pro-Hawaii, it's pro-prosperity. This bill doesn't do that. This bill only encourages criminals and that's simply bad policy. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 147, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THEFT IN THE

SECOND DEGREE," passed Third Reading by a vote of 39 ayes to 11 noes, with Representatives Brower, Ching, Finnegan, Har, Manahan, Marumoto, McKelvey, Pine, Thielen, Tokioka and Ward voting no, and with Representative Takai being excused.

#### **H.B. No. 1212, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 1212, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INFORMATION PRACTICES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

#### **H.B. No. 128, HD 1:**

Representative B. Oshiro moved that H.B. No. 128, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Karamatsu rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Karamatsu's written remarks are as follows:

"I rise in support of House Bill 128, House Draft 1, Relating to Elections. In the 2008 Primary Election, the last minute decisions by candidates to run for offices caused the disqualification of one candidate. The City & County of Honolulu Clerk ruled that the candidate did not formally withdraw from his State House race before filing for the City Council seat. This bill will make the process better for individuals intending to run for elected office by requiring the State Office of Elections to create and make available a standard withdrawal and declaration of candidacy form and make nomination papers available only until the Friday preceding the filing deadline. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 128, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

#### **H.B. No. 233, HD 1:**

Representative B. Oshiro moved that H.B. No. 233, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Shimabukuro rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Shimabukuro's written remarks are as follows:

"I quote testimony from The Legal Aid Society of Hawaii:

My name is Ryker Wada, representing the Legal Aid Society of Hawaii's ("LASH"). I am advocating for our clients who include the working poor, seniors, citizens with English as a second language, disabled and other low and moderate income families who are consumers. We are testifying in opposition to HB 233 as it would weaken protections for consumers in the State of Hawaii. I supervise a housing counseling program in the Consumer Unit at the Legal Aid Society of Hawaii. The Homeownership Counseling Project provides advice to individuals and families about homeownership issues. Specifically the project provides information on how to prepare yourself before purchasing a home and what to do if you are in danger of losing your home through foreclosure. In the past Fiscal Year we serviced more than 200 clients in our Project.

HB 233 seeks to amend Act 137, the Mortgage Foreclosure Rescue Fraud Prevention Act, to, among other things, exempt real estate brokers and sales persons from the definition of distressed property consultants. Act 137 was designed to protect consumers from foreclosure rescue scams and fraudulent distressed property consultants who offer "help" to homeowners who are in arrears or foreclosure. This "help" usually comes in the form of scam artists who take a fee for negotiating with a distressed homeowners mortgage company. Instead the homeowners get little or nothing for their fee and the scam artist has disappeared with the

homeowner's money. A more insidious form of the foreclosure rescue scam involves the scammer taking title to the homeowner's property with the homeowner staying in the property as a renter and attempting to buy it back over the next few years.

The terms of these deals usually make it impossible for homeowners to buy back their property, allowing the scammer to walk off with all or most of a home's equity. While LASH appreciates the challenges for real estate brokers and salespersons due to the enactment of Act 137, we do not believe a wholesale exemption of the industry is the appropriate avenue to make the process smoother while still protecting the rights of the consumer.

LASH anticipates a growing number of foreclosures in the coming years as the so-called exotic mortgage products mature and consumers are not able to keep up with their adjusted mortgage payments or find a suitable refinance. With the growing number of foreclosures, there will only be an increase in the number of foreclosure rescue scams and wronged consumers in the State of Hawaii. The Legal Aid Society of Hawaii opposes HB 233 and its efforts to exempt real estate brokers and salespersons from Act 137. We do not believe this is the appropriate means to protect the consumers in the State of Hawaii.

**Conclusion:**

We appreciate these committees' recognition of the need to protect consumers in the State of Hawaii. HB 233 attempts to weaken protections for consumers. We oppose HB 233 but are more than willing to work with the industry to find the most suitable way to ease the challenges of Act 137 while protecting the interests of the consumers in the State of Hawaii. Thank you for the opportunity to testify."

The motion was put to vote by the Chair and carried, and H.B. No. 233, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE MORTGAGE RESCUE FRAUD PREVENTION ACT," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

**H.B. No. 654, HD 1:**

Representative B. Oshiro moved that H.B. No. 654, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Ward rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Har rose to disclose a potential conflict of interest, stating:

"Mr. Speaker, may I ask for a ruling on a potential conflict? At my law firm, I represent contractors. Thank you," and the Chair ruled, "no conflict."

Representative Finnegan rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Thielen rose to disclose a potential conflict of interest, stating:

"I have a potential conflict. I have contractors in my family," and the Chair ruled "no conflict."

Representative Thielen then asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and H.B. No. 654, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONTRACTORS," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Marumoto voting no, and with Representative Takai being excused.

At 6:46 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 147, HD 1

H.B. No. 1212, HD 1

H.B. No. 128, HD 1

H.B. No. 233, HD 1

H.B. No. 654, HD 1

**H.B. No. 1141, HD 1:**

Representative B. Oshiro moved that H.B. No. 1141, HD 1, pass Third Reading, seconded by Representative Evans.

Representative McKelvey rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and H.B. No. 1141, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THRILL CRAFT OPERATION," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Berg, C. Lee and Thielen voting no, and with Representative Takai being excused.

**H.B. No. 1144, HD 1:**

Representative B. Oshiro moved that H.B. No. 1144, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Thielen rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Keith-Agaran rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I rise to speak in support of H.B. 1144, H.D. 1 which will encourage greater participation in endangered species restoration by private landowners. By statutorily authorizing the development and use of programmatic safe harbor agreements (SHAs) and programmatic habitat conservation plans (HCPs) and allowing tools, such as certificates of inclusion, needed to implement them, restoration can be encouraged on a landscape ecosystem wide basis rather than an isolated landowner basis. Working with multiple landowners to preserve multiple species that share or interact in a common habitat in a region and which experience common threats holds great promise.

"Presently, in order to participate in the State endangered species programs, private landowners cannot take a programmatic approach and would separately need to develop their own duplicative agreements with identical terms and conditions.

"Providing standardized programs encourages many landowners to get involved because it gives them a finished product to evaluate and agree to and enter. Setting a standard within the safeguards and guidelines of the State law and the overview of the endangered species recovery committee removes the uncertainty about final product and outcomes. It also enables the development of management actions that encompass a landscape scale and offer benefits that may otherwise not be possible with a single landowner agreement.

"The end result is that using a cooperative process for SHAs and HCPs will reduce the private landowner's time and cost to participate in these programs, and at the same time encourage more participation and recovery effort for endangered species.

"For these reasons, I am voting in favor of the bill."

The motion was put to vote by the Chair and carried, and H.B. No. 1144, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONSERVATION OF THREATENED AND ENDANGERED SPECIES," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Wooley voting no, and with Representative Takai being excused.

**H.B. No. 1008, HD 1:**

Representative B. Oshiro moved that H.B. No. 1008, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Thielen rose in opposition to the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Thielen's written remarks are as follows:

"Mr. Speaker, I rise in opposition to HB 1008 HD 1, Relating to Land Use.

"This bill purports to protect and promote the proper use of Hawaii's best agricultural lands, but in truth, it is an end run around the Land Use Commission and the Important Agricultural Land designation.

"It attempts to define "gentleman's estates," but in reality, it encourages fake farms.

"It does this by exempting certain projects from the LUC, by allowing "family subdivisions" in place of "farm dwellings" by allowing the sale, subdivision, leasing, consolidation of agricultural land and by using the Condominium Property Regime to double housing density.

"This is not a bill to preserve and promote the proper use of ag land, but an attempt to allow non-agricultural related development on some of our best agricultural lands.

"For these reasons, I am opposed to HB 1008 HD 1, Relating to Land Use."

Representative Shimabukuro rose in support of the measure with reservations and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Shimabukuro's written remarks are as follows:

"I do not agree with the amendment to this bill which grandfathered in existing "gentlemen's estates." I read from the Committee Report:

Your Committees also find that the requirements in this bill may create confusion as to the treatment of uses that may be non-conforming uses under the provisions of this bill.

Accordingly, your Committees have amended this bill by clarifying that uses and activities that were lawful as of the effective date of this Act shall be grandfathered and treated as legal nonconforming uses.

"Furthermore, I found the Hawaii's Thousand Friends' testimony compelling, and I quote:

HB 1008 introduces several development oriented provisions 1) the county controlled 15-acre exemption from the LUC process, 2) "family subdivision" which is an end run around the definition of "farm dwelling," 3) ability to sell, subdivide, lease, consolidate or re-subdivide agricultural land and transfer land titles under county regulations, and 4) the use of HRS 514 Condominium Property Regime which will double housing density.

In reality HB 1008 is not a bill to "preserve and promote the proper use" of agricultural land but an attempt to allow non-agricultural related development on Hawaii's agricultural land and must be held in committee.

"Quotation from testimony of the Ka'u Farm Bureau:

First:

The language in HB 1008 provides that an applicant for a building permit must first "demonstrate a substantial and established agribusiness activity" before being granted a building permit for his farm dwelling. Should a small farmer be fortunate enough to secure a manageable parcel of farmland, where is he expected to live? He will likely first

what to build his house and move his family in so they can all work to establish the farm. I can envision a family in Hilo that wants to start a coffee farm in Ka'u. Is he expected to commute from Hilo to Ka'u every day for more than three years while his coffee trees are established? Add his fuel and vehicle maintenance costs to land and preparation, fertilizer, and plant material? This is hardly an efficient and sustainable model.

Second:

The language in this measure provides that the applicant demonstrate "... sufficiency in quantity, storage, and distribution of irrigation water for each proposed 101..." Some of the best coffee in the State is grown in Ka'u without a single drop of irrigation water. Who will make the determination at the County Building Department? Will they have a resident Ka'u coffee expert that is intimately familiar with site specifics?

The Ka'u Farm Bureau has members that are successful farmers that could not qualify for a building permit or subdivision under HB 1008 because they do not know, or cannot define "cost of production, potential income, and market outlook..." Are they to be denied their land use rights?

Additionally, the language of HB1008 states that a "form of organization of lot owners" must be identified by the applicant. Consider a case in which one farmer wants to grow coffee, another papaya. Should they form a co-op? If the State truly wants to promote diversified agriculture on small family farms, it needs to be sensitive to the realities and needs of the small farmer. Additional land use restrictions and permitting hurdles that deter the creation of small family-manageable tracts will continue to promote large corporate-style agribusiness, which has proven time and again to be an unsustainable model given Hawaii's remoteness and resultant high cost of production.

It's hard enough to create new farms and farmers given the current economic climate, marketing challenges, high cost of production and challenges posed by vog. Please don't make it harder for young and new farmers to compete.

Thank you for this opportunity to testify.

Chris Manfredi  
President

"Quotation from testimony of The Sierra Club:

In addition to making the farm dwelling requirements in HB 1008 applicable to all agricultural lands, we respectfully ask the committees to amend HB 1008 to include an additional farmland protection. Specifically, we should amend Haw. Rev. Stat. § 46-4 to make clear that the counties cannot allow developments that are violate Hawaii's Land Use Law:

*Anything to the contrary notwithstanding, no county, by ordinance or private agreement, may permit any use in the agricultural district, as described in section 205-2, other than a permissible use pursuant to section 205-4.5."*

These amendments would help achieve the original intent of Hawaii's Land Use Law. This would help protect Hawaii's agricultural lands and decrease real estate speculation on farmlands."

Representative Belatti rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative C. Lee rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Pine rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and H.B. No. 1008, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND USE," passed Third Reading by a vote of 46 ayes to 4 noes, with Representatives Berg, Morita, Saiki and Thielen voting no, and with Representative Takai being excused.

**H.B. No. 1035, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 1035, HD 1, entitled: "A BILL FOR AN ACT RELATING TO APPEALS," passed Third Reading by a vote of 45 ayes to 5 noes, with Representatives Berg, Keith-Agaran, Luke, Morita and Saiki voting no, and with Representative Takai being excused.

**H.B. No. 640, HD 1:**

Representative B. Oshiro moved that H.B. No. 640, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Pine rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and H.B. No. 640, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL IMPACT STATEMENTS," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Thielen voting no, and with Representative Takai being excused.

At 6:51 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1141, HD 1  
H.B. No. 1144, HD 1  
H.B. No. 1008, HD 1  
H.B. No. 1035, HD 1  
H.B. No. 640, HD 1

**H.B. No. 1226, HD 1:**

Representative B. Oshiro moved that H.B. No. 1226, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Tsuji rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. In support. In summation, this bill addresses two things. To ensure agricultural viability, we must be at the forefront of research and development to remain competitive in the global marketplace. And at the same time, it is absolutely essential that we preserve and perpetuate our island cultural values. HB 1226 addresses both of these needs. Thank you."

Representative Keith-Agaran rose in opposition to the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I rise to speak in opposition to HB 1226, HD 1. This bill effectively prohibits the communities most affected by the risks from testing of genetically modified plant organisms (GMOs) from asking local officials to impose precautions tailor-made for a particular county or locale. This measure prevents State administrative regulatory actions and county regulatory actions from banning or otherwise regulating activities related to GMOs.

"Hawaii County's elected officials have already acted based on the concerns of their residents to adopt customized regulation of GMOs on their island through Hawaii County Ordinance No. 08-154. This bill pre-emptly any regulation that a county other than Hawaii County may introduce to regulate GMOs, but also limits Hawaii County from any amendments of its regulations after January 1, 2009.

"The Standing Committee Report of the Agriculture Committee acknowledges that this measure has implications for homerule. At the heart of homerule has always been the value of giving voice to a local community's vision for the use of its land, and especially for how agriculture is both maintained and encouraged. It's simply unnatural that

this bill would strip not only the counties, but also the State of the ability to determine the kind and shape of safe agriculture we desire and want.

"I urge my colleagues to vote against the bill."

Representative Shimabukuro rose in opposition to the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Shimabukuro's written remarks are as follows:

"Mr. Speaker, I rise to speak in opposition to House Bill 1226 HD1, which prohibits State administrative regulatory actions from banning or otherwise regulating activities related to genetically modified plant organism, with certain exceptions.

"I must admit that I feel uneasy about supporting a GMO bill that appears to be offered as a trade-off to ensure the passage of other legislation – such as HB 1663, which I support – that prohibits genetically modified Hawaiian taro. I feel even more uncomfortable in being told that HB 1226, unless amended, will actually nullify the protections provided in HB 1663 against contamination from non-Hawaiian GMO taro.

"The report from our Agriculture Committee does acknowledge certain exceptions – such as Ordinance No. 08-154 of Hawaii County, which prohibits genetically engineered taro or coffee in that County. The bill also provides another exception regarding State statutes, claiming that it is "not superior" any law that prohibits GMO Hawaiian taro. I should also take some consolation in the language of the Committee Report that says: "It is your Committee's intent to have that measure (HB 1663) and this measure passed and enacted together as a complementary package."

"Unfortunately, this bill will remain more "contradictory" than "complementary" until it is amended to include the same prohibition against open-field planting and importing of non-Hawaiian GMO taro that exists in HB 1663. At such point in time, I will be able to reconsider my opposition and offer my support to an amended version of this bill – a version that does not give away more than it gains in the way of protection for our native Hawaiian taro."

Representative Bertram rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and H.B. No. 1226, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GENETICALLY MODIFIED PLANT ORGANISMS," passed Third Reading by a vote of 36 ayes to 14 noes, with Representatives Belatti, Berg, Carroll, Hanohano, Keith-Agaran, C. Lee, Luke, McKelvey, Morita, Saiki, Shimabukuro, Takumi, Thielen and Wooley voting no, and with Representative Takai being excused.

**H.B. No. 1048, HD 1:**

Representative B. Oshiro moved that H.B. No. 1048, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Thielen rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. A no vote for me, Mr. Speaker and I wanted to just highlight the section that concerns me. On page 5, it's saying that the Land Use Commission shall allow low density residential lots and residential subdivisions on agricultural lands existing before January 1st, 2009. The Land Use Commission shall put those into the rural districts. I think that's a mistake. Thank you."

Representative Belatti rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. Mr. Speaker, I also rise in opposition with just a short comment. Like the speaker before me, this bill concerns me because it threatens to strip the Land Use Commission of its authority and its discretion by automatically sweeping into the rural district existing

agricultural settlements, plantation camps and subdivisions, many of which might be sited on important agricultural lands. This bill jumps the gun in eliminating these lands from consideration in identification of important ag lands in this State. A process that was set into motion last year is still ongoing and is of paramount statewide importance. Thank you, Mr. Speaker."

Representative Shimabukuro rose in support of the measure with reservations and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Shimabukuro's written remarks are as follows:

"I am compelled by the testimony of Hawaii's Thousand Friends in opposition to this bill. I quote from their testimony:

Hawaii's Thousand Friends, a statewide land and water use organization, opposes HB 1048 that amends chapters 46 and 205 to give the counties greater authority and flexibility to define uses and regulate land use in the State Rural District consistent with broad State policies and standards.

HB 1048 goes beyond giving the counties greater authority in the rural district. The bill shifts decision-making power to the counties over lands in the agricultural district, even IAL, through passage of county ordinances for permitted uses, density, and lot sizes..

In addition, HB 1048 eliminates the LUC thus' curtailing public participation through the contested case process. Removing LUC oversight of the Rural District would make it virtually impossible for Oahu residents to participate in contested case hearings because the Oahu Planning Commission is advisory and there is no appeals process to the decision-making elected City Council.

The Hawai'i County Planning Commission has made it virtually impossible for citizens to participate in contested case hearings by charging large fees from anyone making such a request. The Commission rarely recognizes that anyone has standing to participate in such a hearing and strict time deadlines make it very difficult to request a contested case.

County land use decision-makers do not consider impacts on issues of statewide concern such as public schools, libraries, state highways and the counties do not have the biological or cultural expertise to protect important natural and cultural resources that are abundant within the rural district. '

The LUC must comply with PASH and analyze the effect of a reclassification on Native Hawaiian customary and traditional rights. Under county jurisdiction of rural lands the State loses the ability to impose conditions and comply with PASH because the newly allowable intensive uses will be allowed *as a right* and can be implemented without State review.

HB 1048 is a major overhaul of Hawaii's land use planning system with implications and consequences not known or even thought of and should be held in committee."

Representative Har rose to speak in support of the measure, stating:

"In support, Mr. Speaker. Mr. Speaker, the Rural Lands Advisory Group was established by the Legislature via Act 205 in the 2005 Session. The Rural Lands Advisory Group recommended that State law specify the basic policies governing land use in the rural districts, and that the counties by ordinance determine the permitted uses and land uses consistent with State policies.

"Moreover, they recommended that minimum lot sizes should not be specified in State law. They further recommended that once a county has adopted policies and ordinances for managing land use in the rural districts in accordance with its general plan, the county petition the Land Use Commission to reclassify the land on a regional basis following a quasi-legislative process.

"And finally, the Rural Lands Advisory Group recommended that the counties be authorized to manage land use in the rural districts with the same degree of discretion as they have in managing uses in the urban district. The criteria for the lands in the rural lands district in HB 1048 are based on the recommendations by the Rural Lands Advisory Group. For these reasons Mr. Speaker, I stand in support of the measure. Thank you."

Representative Cabanilla rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and H.B. No. 1048, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND USE," passed Third Reading by a vote of 42 ayes to 8 noes, with Representatives Belatti, Berg, Carroll, Hanohano, C. Lee, Morita, Saiki and Thielen voting no, and with Representative Takai being excused.

#### **H.B. No. 948, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 948, HD 1, entitled: "A BILL FOR AN ACT RELATING TO KAKAAKO," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

#### **H.B. No. 1730, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 1730, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE FINANCES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

#### **H.B. No. 1607:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 1607, entitled: "A BILL FOR AN ACT RELATING TO HAWAII HEALTH SYSTEMS CORPORATION," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

At 6:58 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1226, HD 1  
H.B. No. 1048, HD 1  
H.B. No. 948, HD 1  
H.B. No. 1730, HD 1  
H.B. No. 1607

#### **H.B. No. 1729:**

Representative B. Oshiro moved that H.B. No. 1729, pass Third Reading, seconded by Representative Evans.

Representative Finnegan rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative McKelvey rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and H.B. No. 1729, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Marumoto voting no, and with Representative Takai being excused.

At 6:59 o'clock p.m. Representative Pine requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 7:00 o'clock p.m.

#### **H.B. No. 1260, HD 1:**

Representative B. Oshiro moved that H.B. No. 1260, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Finnegan rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and H.B. No. 1260, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

**H.B. No. 39, HD 2:**

Representative B. Oshiro moved that H.B. No. 39, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Ward rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and H.B. No. 39, HD 2, entitled: "A BILL FOR AN ACT RELATING TO STATE REVENUES," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Finnegan, Marumoto and Thielen voting no, and with Representative Takai being excused.

**H.B. No. 861, HD 1:**

Representative B. Oshiro moved that H.B. No. 861, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Pine rose to speak in opposition to the measure, stating:

"On Stand. Com. 736, I'm in opposition. This measure basically exempts the Office of Elections from the Procurement Code. Many people were very concerned and dissatisfied with how this last election was run. So, exempting them from the Procurement Code, we feel, is problematic. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 861, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," passed Third Reading by a vote of 36 ayes to 14 noes, with Representatives Belatti, Berg, Ching, Coffman, Finnegan, Hanohano, C. Lee, Marumoto, Morita, Pine, Saiki, Takumi, Thielen and Ward voting no, and with Representative Takai being excused.

**H.B. No. 1046, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 1046, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE SALE OF REAL PROPERTY BY THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

At 7:04 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1729  
H.B. No. 1260, HD 1  
H.B. No. 39, HD 2  
H.B. No. 861, HD 1  
H.B. No. 1046, HD 1

At 7:04 o'clock p.m. Representative B. Oshiro requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 7:04 o'clock p.m., with the Speaker presiding.

At this time, the Chair addressed the Body, stating:

"Members, at this time it is 8:00 p.m., and we have 5 more pages to go. Excuse me, the clock has been fixed so it is 7:05 p.m. and the Senate has completed their session at about 3:35 this afternoon. They are more efficient, but I believe we are much more transparent and much more democratic in our debate."

**H.B. No. 1642, HD 1:**

Representative B. Oshiro moved that H.B. No. 1642, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Shimabukuro rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Shimabukuro's written remarks are as follows:

"The Hawaii Primary Care Association, Community Clinic of Maui, AlohaCare, and a concerned individual testified in support of this bill.

"Testimony provided by Waianae Coast Comprehensive Health Center on a related bill, HB 1525 HD 1: Relating to Medicaid, sheds some light on why a bill like this is necessary:

Submitted By: Richard Bettini, Chief Executive Officer  
Contact: [wchc@wchc.com](mailto:wchc@wchc.com) . .

We believe the recent QUEST Expanded Access Bid Process produced poor value for both tax payer and citizen. Changes must be made to assure that insurance companies with poor performance records in other States do not receive contracts to provide healthcare to Hawaii's most vulnerable.

We believe the QUEST Expanded Access bid process needs to be investigated to determine why a health plan under federal investigation for fraud, with questionable financial stability and without a proven network of medical providers in Hawaii, receives a bid for hundreds of millions of dollars.

Unless stronger regulation related to disclosure is firmly in place, a limitation on for-profits doing business in Medicaid in Hawaii may be appropriate.

"Mahalo."

Representative Finnegan rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and H.B. No. 1642, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PURCHASES OF HEALTH AND HUMAN SERVICES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

**H.B. No. 1728, HD 1:**

Representative B. Oshiro moved that H.B. No. 1728, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Ching rose in opposition to the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition to H.B. 1728 – Relating to fees. I am concerned this bill will remove flexibility for DCCA, UH and the Judiciary to adjust fees using the expedited process. Lawrence Reifurth, Director of Consumer Affairs, says "The Department is opposed to removal of its flexibility to adjust fees in an expedited manner, notwithstanding that bill provides the increased flexibility to other agencies." Thank you."

Representative Bertram rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and H.B. No. 1728, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FEES," passed Third Reading by a vote of 43 ayes to 7 noes, with Representatives Bertram, Ching, Finnegan, Marumoto, Pine, Thielen and Ward voting no, and with Representative Takai being excused.

#### H.B. No. 1741, HD 1:

Representative B. Oshiro moved that H.B. No. 1741, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Shimabukuro rose in opposition to the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Shimabukuro's written remarks are as follows:

"Mr. Speaker, I rise to speak in strong opposition to HB 1741 HD1, which suspends temporarily the distribution of a portion of the Conveyance Tax to the Land Conservation Fund, and reduces portions transmitted to the Natural Area Reserve Fund and Rental Housing Trust Fund. I realize that the Legislature and the Executive branch must work together in these difficult times to cut expenses, increase revenue, and balance the budget. However, the negative social and environmental costs of cutting off funds to land conservation and affordable housing programs far outweigh whatever budgetary advantage is achieved by this ill-considered measure.

"If we look at the public testimony offered to our Finance Committee, we can see that it is not just the usual advocates – the environmentalists, community activists and nonprofit agencies – who spoke out against this bill. The Department of Land and Natural Resources was especially strong in laying out its policy, legal and technical concerns over redirecting conveyance tax revenue.

"Allow me to summarize the testimony, which begins by noting the loss of \$3.5 million in revenue that would result from this bill. It speaks of losing highly skilled staff which would take years to replace. Threatened and endangered species would most likely become extinct. Federally funded projects that depend on Conveyance Tax revenue for the required State match would be lost. And this is just one department that would suffer negative impact. Equally harmed would be State housing agencies that have depended on a percentage of the Conveyance Tax to leverage federal monies for developing affordable housing. This is a time when we should be increasing our support for low-cost housing rather than diminishing it.

"My own district has seen the positive benefits, both environmental and economic, of our State Land Conservation Fund's Legacy Land Program, which enabled Ma'o Farms to acquire land to expand its highly acclaimed agricultural and educational work on our Wai'anea Coast. More than just keeping land from harmful development, the Legacy Land grant has provided jobs for our residents and training for young aspiring farmers. I urge my colleagues to vote against HB 1741, which clearly sacrifices long-term benefits for questionable short-term advantages."

Representative Finnegan rose and asked that the Clerk record an aye vote with reservations for her and the Chair "so ordered."

Representative Keith-Agaran rose in support of the measure with reservations and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Keith-Agaran's written remarks are as follows:

"Mr. Speaker. I rise to speak with reservation on HB 1741, HD 1 which temporarily suspends the distribution of a portion of the Conveyance Tax to the Land Conservation Fund and reduces the portions to the Rental Housing Trust Fund and Natural Area Reserve Fund.

"While I see these as options to balance the budget, the percentage of the Conveyance Tax revenues dedicated to these very important funds will

severely affect the development of rental housing for lower income households, severely affect our islands' natural resources, conservation programs and the protection of rare, unique cultural, natural, agricultural and recreational resources and management of these important lands. I hope that other measures moving through the Legislature will indeed address maintaining these important programs with other funding sources.

"It is for these reasons, I vote with reservations."

Representative Ward rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Ching rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Wooley rose in support of the measure with reservations and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Wooley's written remarks are as follows:

"This bill is part of a package of bills that have been moved forward by the House of Representatives to provide adequate options and flexibility for Senate members, House members, and the Governor during this legislative Session as we address the State's serious budgetary difficulties. Although I do not like many of the bills in this package, I have supported them to ensure that we do not limit our fiscal options and shoot ourselves in the foot. This bill, however, is penny wise and pound foolish, as it diverts dwindling funds (the conveyance tax will already fall between 50-60 percent as a result of the economic downturn) and small amounts of money into the general fund at the expense of critical programs that protect our economy, our health, and our safety.

"Without this funding, resources for affordable rental housing, private-public partnerships that protect our watersheds (i.e., our drinking water), and youth programs will disappear. In addition, programs that prevent invasive species from entering the State or becoming established and efforts to protect land for agricultural, conservation and cultural use will end at a critical time. In tough times, we need to be extra vigilant to make sure we don't jeopardize our future options, particularly when we can make a big difference at cut rate prices. Testimony against this bill also identified a significant number of critical jobs that will be eliminated if this bill becomes law. All that said, I am voting to support this bill -- with reservations -- because it is part of a package of bills we need to provide ourselves with fiscal options as we work to balance the budget."

Representative McKelvey rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Bertram rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Cabanilla rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

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

"Thank you, Mr. Speaker. I'm standing in support. This bill will temporarily change the distribution of the Conveyance Tax revenues between July 1st, 2009 and June 30th, 2015 as follows:

For the Land Conservation Fund - from 10 percent, to 0 percent;  
For the Rental Housing Trust Fund - from 30 percent to 15 percent;  
For the Natural Area Reserve Fund - from 25 percent to 10 percent; and  
For the general fund - from 35 percent to 75 percent.

"What this means Mr. Speaker is that, for the Land Conservation Fund, they will lose \$3 million per year. The Rental Housing Trust Fund will lose \$5 million per year. The Natural Area Reserve Fund will lose \$4 million per year. But for the general fund, we will gain \$12 million per year. Thank you."

Representative Chong rose to speak in support of the measure, stating:

"I rise in support. Just for a little clarification, there are two other bills which will actually, or may, go to help these programs where we are taking money from that we would not otherwise be able to use so that there is no major adverse impact to these programs. Thank you."

Representative Carroll rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

At 7:10 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 7:13 o'clock p.m.

Representative Manahan rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and H.B. No. 1741, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CONVEYANCE TAX," passed Third Reading by a vote of 40 ayes to 10 noes, with Representatives Aquino, Berg, Brower, Hanohano, C. Lee, Marumoto, Morita, Saiki, Shimabukuro and Thielen voting no, and with Representative Takai being excused.

#### H.B. No. 1744, HD 1:

Representative B. Oshiro moved that H.B. No. 1744, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Ward rose to speak in opposition to the measure, stating:

"Mr. Speaker, I rise in opposition. Mr. Speaker, I know it's late. I know we want to go home. We've only been here for ten hours, but it's a *déjà vu* for me because in Finance, we start at 10:00 in the morning and we finished at 5:00 in the morning. That's 19 hours. And in the wee hours of the night, kind of like the ways some of you are feeling right now, this bill suddenly came upon us. And I couldn't believe it. I can't believe it's gone this far, Mr. Speaker, because there's no heart in it.

"This is the TAT tax that the counties have which represents \$100 million, or 25 percent of their budgets. To take that out is to basically say to all our friends and family on the Neighbor Islands, that your property taxes have gone up, your lifestyle has been shifted.

"Mr. Speaker, I know that this is an important issue for balancing the budget. Of course it must be kept alive. But let's take out the extreme claw that it has which has reached out to our Neighbor Islands. Why not have a *manini* percentage? Not the 'whole nine yards', Mr. Speaker.

"So people are tired. My apologies. But this thing came upon the Finance Committee in the same conditions that we're experiencing right now. Thank you, Mr. Speaker."

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

"In support with reservations. I don't have any problem with using this to help balance the budget. My reservation is that I don't think any of the TAT should have gone to the counties in the first place. The TAT is for marketing, period."

Representative C. Lee rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. In opposition with written comments. And I just want to note that the Finance hearing was actually 20 hours. Thank you."

Representative C. Lee's written remarks are as follows:

"Despite our ailing economy, raiding the counties' appropriations out of the Transient Accommodations Tax will help balance our State budget at the expense of deeper budget deficits for the counties. While the addition of tens of millions of dollars to State coffers would bring us a small step closer to a balanced budget, it would be a devastating loss for the counties, for whom tens of millions of dollars is a significant portion of their budget.

"Everyone is going to have to bear the burden of these difficult years, both the State, each county, businesses and families. We are all in it together and we will all have to do our part. The State must act responsibly and overcome its own deficit without unilaterally passing the burden on to the counties."

Representative Ching rose in opposition to the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition to H.B. 1744 - Relating to Transient Accommodation Tax. I am concerned this bill might hurt the counties and, in turn they might have to raise property taxes to make up for lost revenue. As the Hawaii Council of Mayors states in their testimony, "The counties provide the critical security, transportation, water and sewer infrastructure." It is important to continue sharing revenue with the counties so they are able to provide the necessary services. Thank you."

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

"Yes, Mr. Speaker. I'm in favor, but have strong reservations. I will watch the progress of this as it moves to the Senate and into Conference. Thank you, very much."

Representative Keith-Agaran rose in support of the measure with reservations and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I rise to speak with reservations in support of HB 1744, HD 1. This bill will suspend the Transient Accommodations Tax (TAT) that the counties rely on to provide services to resident and visitors alike for a period of six years.

"Revenue from the TAT is a vital source of funding for all counties in the State. The TAT revenue assists the counties with funding critical services, facilities, programs and government operations, including beach parks, police, firefighters, drinking water, and wastewater treatment. Because I fully understand the dire budget challenges facing the State, I am voting today to move this measure forward, but I see it as a vehicle to use as the discussion continues on how we address the expected budget shortfalls. I am very concerned that cutting off substantial funding to any of the Neighbor Island county governments will not be the best course of action to take to balance our State budget. Our Neighbor Island counties have great challenges and only property taxes and fees to balance their own budgets. Withholding this important revenue source from the counties may further worsen the economic conditions that we all as a community are currently experiencing.

"While I support the bill today, I hope that this discussion will evolve into a way to collaborate with the counties rather than taking away benefits from them. Thank you."

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

"Yes. I have strong reservations, Mr. Speaker. Strong reservations."

Representative Chong rose to speak in support of the measure, stating:

"Thank you very much, Mr. Speaker. I stand in support. I know this is a controversial bill, but it is a part of the package to address the \$1.8 billion,

three-year shortfall. I ask the Members to support this to keep the discussion going.

"A lot of people are talking about the counties, and that this is their tax. I ask my colleagues to keep in mind one related item, so to speak. As we move forward with the deficit, one of the big issues that has come up is HHSC, as an example. In most counties throughout the country, hospitals are funded through real property taxes by the county. It's not funded by the state. So perhaps this gives us an avenue for further discussion to address, not just State problems, but each island's problems. Thank you."

Representative Awana rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. I stand in strong support and ask that the comments made by the Representative from Kaneohe/Kailua be entered into the Journal as if they were my own. Thank you," and the Chair "so ordered." (By reference only).

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

"Mr. Speaker, I stand in strong support. As we said earlier in the Session, there are going to be many difficult decisions that we will have to make, and this is one of them. We have many hard decisions coming up in the next few weeks.

"I think one of the things that the Representative from Kaneohe/Kailua just mentioned is the issue of HHSC. But there are other issues like the health safety net. We have got to be strong, and we have got to realize that this needs to go ahead. I ask that I be able to submit some additional comments. Thank you."

Representative M. Lee's written remarks are as follows:

"I rise in support. Mr. Speaker, this measure is necessary to help the State deal with the present fiscal crisis and to reduce expected revenue shortfalls.

"This has been a most difficult year, and all indications are that the revenue projections for the coming year will be inadequate to meet our needs.

"We have said publicly that all options are on the table, and this and other proposals we are hearing today are part of a plan which may assist us to retain core programs, save our healthcare safety net and avoid significant job loss.

"In our present fiscal situation, our primary responsibility is to the State of Hawaii and the services it provides to our statewide constituency.

"This is a difficult decision, but a proposal we must advance in order to keep our options open."

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

"Mr. Speaker, I rise in support. This bill suspends for six years, from July 1st, 2009 to June 30th, 2015, the distribution of the Transient Accommodations Tax revenues to the counties.

"This will generate \$97.9 million to the State coffers in fiscal year 2010; \$102.3 million to the State coffers in 2011; \$107.1 million to the State in 2012; \$112 million to the State in 2013; \$117 million to the State in fiscal year 2014; and \$122.7 million to the State in 2015. Thank you."

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

"In favor, Mr. Speaker. The Chair of the Consumer Protection Committee spoke his piece like a true hotel man. I think he and I are two old war horses that remember. You may recall that when we instituted the TAT, the hotel room tax, we told tourism leaders, when they asked us to, 'Please not use it for anything else but tourism. We want to build a

Convention Center.' And I think some of us said, 'Don't worry. We're going to use it all for tourism. Trust us.' Thank you."

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

"Mr. Speaker, in support with reservations. I had my doubts about the wisdom of this particular bill because it basically just charges our same constituents in a different way. But I think because of the severity of the fiscal situation, I think at this point, if we're going to get up and oppose money-raising bills, we're going to have to substitute something. My suggestion is to either increase the rates or lower the income level for HB 1747 which would increase income taxes. Mahalo."

Representative Finnegan rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

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

"Mr. Speaker, I have strong reservations."

The motion was put to vote by the Chair and carried, and H.B. No. 1744, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE TRANSIENT ACCOMMODATIONS TAX," passed Third Reading by a vote of 33 ayes to 17 noes, with Representatives Belatti, Berg, Bertram, Brower, Carroll, Ching, Coffman, Hanohano, Har, C. Lee, Luke, McKelvey, Morita, Nakashima, Sagum, Saiki and Ward voting no, and with Representative Takai being excused.

#### **H.B. No. 1748, HD 1:**

Representative B. Oshiro moved that H.B. No. 1748, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise in support. The purpose of this bill is to temporarily increase the insurance premium tax rates on insurers of life insurance contracts from 2.75 percent, to 4.265 percent; and for ocean-marine insurance contracts from 0.8775 percent, to 4.265 percent.

"According to the Department of Taxation and the Department of Commerce and Consumer Affairs, this bill, if approved, will raise about \$5 million per year in additional revenues. Thank you."

Representative Ward rose to speak in opposition to the measure, stating:

"Mr. Speaker, I rise in opposition. This is one in a series of bills that mention the T word. And in fact pushes the T word to the ultimate on a number of tax increases. There are some of us in the Finance Committee who don't believe the TAT tax and some of these tax increases are at the point where we are going to say, 'We are going to increase your taxes, business.' Because let's be frank, anytime a business tax is increased, the businesses pass it on to the consumer. The consumers are our constituents. The consumers are the people of Hawaii. So when we think that we're just going to get it out of business, it's like saying that we are going to bleed it out of the people of Hawaii. Again, back to the principles of an economic recovery, circulation of the 72 percent who are the consumers, they need to keep their money and they need to spend it. We don't need to take it away from them.

"So Mr. Speaker, this stuff can blow up in our face. I know we have to balance the budget, by law. But there are ways of not going to the extremes until we really see. Until Thursday, when the Council on Revenues meets again, we probably don't know how dire the situation is. We shouldn't be mentioning the 'tax' word. The income tax increase; a GET tax increase. Until we really even know it should be part of the thing that we're going to be discussing. So all of these things are on the backs of the people of Hawaii, and particularly on the Neighbor Islands. Thank you."

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

"Mr. Speaker, I stand in support. Again, we said we would put everything on the table and we need to do this. Thursday will be too late to pass this bill if we should need it. Thank you."

Representative Chong rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. In support. Just to address some of the comments made by the Representative from Hawaii Kai. First of all, if you look at the Insurance Premium Tax statute, not all insurance companies are treated the same. In fact, the bulk of the property and casualty line pays 4.265 percent, while the rest do not pay as high. This does generate revenue, but also this is a tax equity issue.

"And secondly, to follow up with the Representative from Mililani, on Thursday the news will probably get worse. The US mainland has not bottomed in their economy and therefore, since we lag, neither has ours. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 1748, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE PREMIUM TAXES," passed Third Reading by a vote of 46 ayes to 4 noes, with Representatives Ching, Finnegan, Pine and Ward voting no, and with Representative Takai being excused.

#### **H.B. No. 1829, HD 1:**

Representative B. Oshiro moved that H.B. No. 1829, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Finnegan rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and H.B. No. 1829, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC STIMULUS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

At 7:27 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1642, HD 1  
H.B. No. 1728, HD 1  
H.B. No. 1741, HD 1  
H.B. No. 1744, HD 1  
H.B. No. 1748, HD 1  
H.B. No. 1829, HD 1

#### **H.B. No. 611, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 611, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 48 ayes to 2 noes, with Representatives Finnegan and Ward voting no, and with Representative Takai being excused.

#### **H.B. No. 1544, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 1544, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAX EXEMPTIONS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

#### **H.B. No. 1598, HD 1:**

Representative B. Oshiro moved that H.B. No. 1598, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Belatti rose in opposition to the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Belatti's written remarks are as follows:

"Mr. Speaker, I rise in strong opposition to HB 1598. My opposition to this bill is based on the same constitutional concerns and concerns about unintended consequences that I have for HB 1604."

Representative Ward rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and H.B. No. 1598, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 39 ayes to 11 noes, with Representatives Belatti, Berg, Ching, Finnegan, Hanohano, C. Lee, Marumoto, Morita, Pine, Saiki and Thielen voting no, and with Representative Takai being excused.

#### **H.B. No. 1605, HD 1:**

Representative B. Oshiro moved that H.B. No. 1605, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Belatti rose in opposition to the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Belatti's written remarks are as follows:

"Mr. Speaker, I rise in opposition to HB 1605. The purpose of this bill is well-intentioned in that it encourages an independent study of Hawaii's tax code. However, the creation and funding of the Hawaii Tax Review Initiative as proposed is duplicative of the constitutionally mandated Tax Review Commission that is scheduled to convene on July 1, 2010. In light of current economic conditions, a better approach might be to convene the 2010 Tax Review Commission earlier and afford this Commission the proper funding and time to present the Legislature with a thorough report as contemplated by HB 1605."

Representative Ward rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Marumoto rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative C. Lee rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Saiki rose in opposition to the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Saiki's written remarks are as follows:

"Mr. Speaker, I rise in opposition to H.B. 1605, H.D. 1.

"This legislation proposes to create a commission to review Hawaii tax policy. The legislation also proposes to equally split the cost of the initiative between the State and private donors. It is questionable whether private entities should be able to co-share the cost of a commission that is charged with reviewing tax policy. This could open the door to private interests that are inclined to manipulate our tax structure and laws through such a process.

"This possibility is particularly applicable here because the private individual who has testified in support of this measure at Committee hearings and who has offered to raise private funds for this Commission has a track record of using the legislative process to advance his personal and financial interests. Just today, this individual has advocated for House Bill Numbers 1593, 1604, and 1598 to be approved by this Body on Third Reading. These bills propose to alter existing commercial lease rent contracts in favor of lessees. The individual also caused this Body to call for a study to review commercial real property leases by the Legislative Reference Bureau in 2003.

"The private individual is a commercial lessee, and it is apparent that objectivity may be lost if he is permitted to co-fund the tax review analysis.

"Accordingly, I oppose this legislation. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 1605, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 42 ayes to 8 noes, with Representatives Belatti, Berg, Finnegan, Hanohano, Luke, Morita, Pine and Saiki voting no, and with Representative Takai being excused.

**H.B. No. 1735, HD 1:**

Representative B. Oshiro moved that H.B. No. 1735, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I'm rising in support. This bill simply advances the payment of the general excise tax by 20 days. It provides a one-time boost to the general fund of about \$40 million. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 1735, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAX," passed Third Reading by a vote of 49 ayes to 1 no, with Representative McKelvey voting no, and with Representative Takai being excused.

At 7:32 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 611, HD 1  
H.B. No. 1544, HD 1  
H.B. No. 1598, HD 1  
H.B. No. 1605, HD 1  
H.B. No. 1735, HD 1

**H.B. No. 1739, HD 1:**

Representative B. Oshiro moved that H.B. No. 1739, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise in support of this measure. This bill would prohibit the recipient of federal grants from qualifying for State tax credits. Right now we currently working with the Department of Taxation to re-price the estimates based upon federal grants and other monies as an amendment to this draft. The prior estimation of revenue gain by the Department of Taxation was about \$20 million. Thank you."

Representative Finnegan rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and H.B. No. 1739, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

**H.B. No. 588, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 588, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COUNTIES," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

**H.B. No. 1043, HD 1:**

Representative B. Oshiro moved that H.B. No. 1043, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Cabanilla rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Cabanilla's written remarks are as follows:

"The purpose of Section 1 of this Act is to address State low-income housing credits. It reduces the period over which credits may be claimed from ten years to five years. The Legislature finds that the reduction should make the credits more valuable to investors.

"Part II of this Act addresses the election of a federal grant in lieu of a portion of the State tax credit allocation for 2009, as authorized by the American Recovery and Reinvestment Act of 2009, just passed by Congress.

"Mr. Speaker, as the federal government is stepping up to the plate to give incentives for the development of affordable housing, I hope that the State of Hawaii will follow suit."

Representative Pine rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and H.B. No. 1043, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LOW-INCOME HOUSING TAX CREDITS," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

**H.B. No. 1153, HD 2:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 1153, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

**H.B. No. 1504, HD 1:**

Representative B. Oshiro moved that H.B. No. 1504, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Ward rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and H.B. No. 1504, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Ching, Finnegan and Marumoto voting no, and with Representative Takai being excused.

**H.B. No. 1583, HD 1:**

Representative B. Oshiro moved that H.B. No. 1583, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Ward rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Finnegan rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and H.B. No. 1583, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

At 7:35 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1739, HD 1  
H.B. No. 588, HD 1

H.B. No. 1043, HD 1  
 H.B. No. 1153, HD 2  
 H.B. No. 1504, HD 1  
 H.B. No. 1583, HD 1

**H.B. No. 1731, HD 1:**

Representative B. Oshiro moved that H.B. No. 1731, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, in support with reservations. I originally submitted my no vote because I'm concerned that transferring money away from smoking prevention is in the long run, much more expensive than the money that we would save here. But considering the financial situation, I would like to change my vote to aye with reservations, and see how things turn out. Mahalo."

Representative Sagum rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative C. Lee rose in support of the measure with reservations and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative C. Lee's written remarks are as follows:

"I have grave reservations about taking funding from longstanding effective programs that protect our youth and prevent underage smoking. We are in a difficult economic time, but shifting these funds to overcome a budget deficit is dangerous in a time when smoking rates for our children are likely to rise. With our budget deficit likely to grow in the coming months, I am voting on this measure to move it forward so we have options on the table to help reach budget solvency."

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

"With strong reservations, please."

Representative Nishimoto rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Marumoto rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Ching rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Chong rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. In support. This bill again, is a part of the overall financial package to balance our \$1.8 billion deficit. While I do agree with the Representative from Chinatown, there are a lot of things, as we progress, and should the Council on Revenues projections get worse on Thursday, that we will be making tough decisions to make sure we can provide services in the present by sacrificing a little in the future.

"I do understand that this is one of those bills that helps us provide the safety net today, especially for healthcare and human services. Thank you."

Representative Coffman rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Ward rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Luke rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

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

"In support. I would just like to say that this is a particularly hard vote for me to take because I've always been a strong advocate against smoking. But I know that this is something that is really necessary for us to do. We've got to it, and we'll see what happens on Thursday. Thank you."

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

"Thank you, Mr. Speaker. I rise in support of this bill, H.B. No. 1731, HD 1. Just a couple of points. This bill does reallocate for two years, the money the State currently gets from the master settlement agreement. These have not been easy decisions, as expressed by the votes with reservations. I too share the sentiments of the Members.

"Currently, the master settlement agreement distribution is as follows:

The Emergency Budget Reserve Fund, the 'Rainy Day' Fund currently receives 24.5 percent of the funds. However, the Tobacco Prevention and Control Trust Fund currently receives 12.5 percent. The University of Hawaii John A. Burns School of Medicine receives 28 percent. And the Department of Health receives 35 percent.

"That's 24.5 percent, 12.5 percent, 28 percent and 35 percent.

"The new master settlement distribution would be as follows:

The Emergency Budget Reserve Fund, the 'Rainy Day' Fund would receive 24.5 percent, so no change there. However, the Tobacco Prevention and Control Trust Fund would now receive 2 percent. The Medical School would receive 23.5 percent. And the Department of Health, 25 percent. The general fund would receive 25 percent, or \$12.5 million per year.

"When we looked at the apportionment as proposed in this HD 1, we strove to preserve the services to the children as much as possible. And although the Tobacco Trust Fund will see a large reduction in this measure, they have assured me that there is a healthy corpus, even if you consider the market loss of the Trust Fund this year. The current Trust Fund balance is about \$37 million, Mr. Speaker.

"We've also maintained the debt service payment for the John A. Burns School of Medicine. But we did take a little bit back from the operations of the Med School. I don't believe this will hurt them in the short run.

"And finally, we did defer the growth that the Governor had assumed in her Financial Plan, that's H.B. No. 1732. We did not move on that bill, and I don't intend to move on that bill. HB 1732 promoted by the Governor and assumed in her Financial Plan would tap the Medical School, and also possibly harm the Cancer Research Center's special fund. Thank you, Mr. Speaker."

Representative B. Oshiro rose to disclose a potential conflict of interest, stating:

"Mr. Speaker, I would like to ask for a ruling on a possible conflict of interest for HB 1731. At my law firm, I represent the Coalition for a Tobacco Free Hawaii. Thank you," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and H.B. No. 1731, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TOBACCO SETTLEMENT SPECIAL FUND," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Aquino, Berg and Brower voting no, and with Representative Takai being excused.

**H.B. No. 1749, HD 1:**

Representative B. Oshiro moved that H.B. No. 1749, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, again, I am rising in support for H.B. No. 1749. The purpose of this bill is to impose for a six-year period of time, July 1st, 2009 to June 30th, 2015, the Insurance Premium Tax on Mutual Benefit Societies, Fraternal Benefit Societies, and Health Maintenance Organizations. The bill also establishes a medical workforce promotion, health workforce education, or indigent healthcare program tax credit that may be claimed against the tax.

"In this House Draft 1, your Committee on Finance did amend and exclude fraternal benefit societies from this taxes application. According to a memo from Budget and Finance Director Georgina Kawamura, the bill is estimated to generate about \$25 million per year."

The motion was put to vote by the Chair and carried, and H.B. No. 1749, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE INSURANCE PREMIUM TAX," passed Third Reading by a vote of 44 ayes to 6 noes, with Representatives Ching, Finnegan, Marumoto, Pine, Thielen and Ward voting no, and with Representative Takai being excused.

#### **H.B. No. 1184, HD 2:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 1184, HD 2, entitled: "A BILL FOR AN ACT RELATING TO STATE GOVERNMENT," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

#### **H.B. No. 1584, HD 1:**

Representative B. Oshiro moved that H.B. No. 1584, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Finnegan rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and H.B. No. 1584, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE RATE OF INTEREST APPLICABLE TO OVERPAYMENTS OF TAX," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

#### **H.B. No. 1600, HD 1:**

Representative B. Oshiro moved that H.B. No. 1600, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Choy rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Choy's written remarks are as follows:

"It should be emphasized that reimbursements should be for payroll related items only, i.e. payroll, payroll taxes and employee benefits. No amounts for administrative services or other cost should be transferred from one entity to another.

"Additionally, the Director of Taxation orally testified that the current enforcement of a common paymaster is based on IRC 267(b) as stated in this bill."

The motion was put to vote by the Chair and carried, and H.B. No. 1600, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAX," passed Third Reading by a vote of 50 ayes, with Representative Takai being excused.

At 7:43 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1731, HD 1  
H.B. No. 1749, HD 1

H.B. No. 1184, HD 2  
H.B. No. 1584, HD 1  
H.B. No. 1600, HD 1

At 7:44 o'clock p.m. Representative Pine requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 7:52 o'clock p.m.

#### **H.B. No. 1747, HD 1:**

Representative B. Oshiro moved that H.B. No. 1747, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Ward rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Ching rose in support of the measure with reservations and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in support however, with reservations of H.B. 1747 – Relating to Taxation. This bill creates an extremely broad tax bracket at the rate of 8.25% for those earning between \$96,000 and \$750,000 and I am concerned that those on the low end of this proposed tax bracket, who are the middle class of Hawaii, will feel this tax increase harder than most.

"Raising taxes during economic hardship is never a good idea. This takes money out of the hands of those who would otherwise be spending money and stimulating the economy. People making over \$750,000 are being taxed nearly double their current rate, and those are the people with the capital needed to create jobs and keep the economy going. I think this bill could potentially send the message that Hawaii might not be the best place to invest or do business. Thank you."

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

"Thank you, Mr. Speaker. I rise in support of House Bill 1747, House Draft 1. This bill increases the income tax on individuals earning more than \$125,000, head of households earning more than \$187,000, and joint taxpayers earning more than \$250,000. Again, \$125,000 for individuals, \$187,000 for head of households, and joint taxpayers earning more than \$250,000.

"This bill also increases the standard deductions and personal exemptions by 10%. Just a few citations here, Mr. Speaker. According to the Tax Foundation, Hawaii's income per capita is about \$46,500. According to the U.S. Census Bureau, the median household income for Hawaii is \$62,543. And, according to the U.S. Census Bureau, the median family income for Hawaii is \$71,784. Mr. Speaker, this bill will not raise taxes on any of these groups.

"This bill balances the needs of our communities by asking those with the means to pay more, to pay a little bit more. Let me explain. This bill asks individuals making more than \$275,000 to pay less than 1% more in income taxes. So, if you're fortunate enough in this community to earn more than \$275,000 a year, we're asking you to pay less than 1% more in income taxes.

"This bill also asks a couple who earn more than \$550,000 per year, for those couples in our community who earn \$550,000 per year, to pay less than 1% more in income taxes. The income tax bracket changes will generate about \$62 million per year. The standard deduction and personal exemptions increases will provide a tax cut of \$11.3 million to those of the lower income levels.

"Finally, the Institute on Taxation and Economic Policy Study, showed how regressive our tax system is. One way to fix this is to create these high income tax brackets. Thank you, Mr. Speaker."

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

"Thank you very much, Mr. Speaker. In support with just slight reservations. My concern is only that, just reading a news report here, that this would also include small businesses whose income flows through to a personal tax return. So, I hope that when they look at deductions on the Senate side, they can keep in mind that small businesses do utilize this bracket. Thank you."

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

"Mr. Speaker, I will be voting for this measure with reservations. It's difficult for me to vote for a tax increase, but considering the situation, I will do so, but I'm hoping that the brackets don't slip downwards at all. It's always preferable to derive revenue from the income tax, rather than from the general excise tax, because the income tax is progressive, and the GET is very regressive. So, I am reluctantly supporting this measure."

Representative Pine rose in support of the measure with reservations and asked that the remarks of Representatives McKelvey and Marumoto be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative M. Lee rose in support of the measure and asked that the remarks of Representative M Oshiro be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

The motion was put to vote by the Chair and carried, and H.B. No. 1747, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Finnegan voting no, and with Representative Takai being excused.

At 7:57 o'clock p.m., the Chair noted that the following bill passed Third Reading:

H.B. No. 1747, HD 1

#### END OF CALENDAR

At 7:58 o'clock p.m. Representative B. Oshiro requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 7:59 o'clock p.m.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 882) recommending that H.B. No. 139, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 139, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Har rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. Mr. Speaker, I rise in strong opposition to Stand. Com. Rep. No. 882, House Bill 139, House Draft 2. Mr. Speaker, once again, we are dealing with yet another bill for the establishment of toll roads. While proponents of this measure believe that if we pass this bill, the DOT will enter into an agreement with a private company to build additional roads in Hawaii, at no cost to tax payers. I submit there are many costs which have not been addressed, and for which I base my opposition upon. Mr. Speaker, I base my opposition upon six reasons.

"First, Hawaii is in no jeopardy of losing federal funding for our highways, should we not pass this bill. As this Body knows, in 2005, the

Safe, Accountable, Flexible, Efficient Transportation Equity Act, also known as SAFETEA-LU, provides funding for state's highways, highway safety, and public transportation, and is the federal funding source from which Hawaii receives its 80-20 match for repair and maintenance, as well as construction of new projects.

"While SAFETEA-LU is up for reauthorization this summer, the Hawaii State Department of Transportation made clear to the Finance Committee, in its testimony on February the 27th, 2009, that this bill would not, in any way, enhance or jeopardize the 80-20 match we receive from the federal government, assuming SAFETEA-LU is reauthorized. If somehow we did not pass such a measure, and in doing so, we would be endangering the availability of federal funds for our road projects, I would certainly understand the reason for this bill. However, failure to pass this bill will not endanger or jeopardize our federal funds, and therefore this bill is unnecessary.

"A second reason for my opposition to this bill is that this bill would allow for the privatization of roads. Mr. Speaker, there is an inherent danger to privatizing roads, because roads are for public use. Any driver knows how events that take place on one road affect another connecting or alternative route. Thus, toll prices, maintenance and safety standards, and congestion on a toll road have a substantial impact on the number of cars using alternative routes, including local roads and mass transit.

"Decisions about how to operate and manage these roadways, have the effect of creating traffic policy for the State. What may seem beneficial from a narrow profit perspective, does not necessarily benefit transportation networks generally. As a result, public control of key toll roads is necessary to ensure coherent statewide transportation planning and policymaking.

"Road privatization in other states shows that when private operators profit, their motives produce very different management decisions than government would. For example, allowing a private entity to set a toll, enables the private operator to largely dictate traffic management. While concession agreements lay out schedules for toll increases that can sound reasonable, they often times compound over time to very high rates. For example, Chicago's 99-year toll agreement lays out a schedule of permissible rate hikes. If these same rate increases had applied to New York's Holland Tunnel since its inception, that road really could presently charge a one way toll of more than \$180. As a practical matter, a toll operator would be unlikely to charge such a high price, because drivers would instead take alternate routes.

"But again, the point is that private toll decisions equate to a private entity having broad control over our traffic management. Transportation policy should be made according to what is in the best interest of the public. Not dictated by what kind of extra payments may have to be made to a private operator.

"A third reason I am opposed to this bill, Mr. Speaker, is because it specifically targets residents living in newly developed areas, such West Oahu and West Maui. This bill exacerbates inequity, in that it restricts the ability of the DOT to enter into agreements with private entities to build, operate, own, or finance transportation facilities, including toll highways, to newly constructed facilities only. In other words, roads already built in the State cannot be tolled.

"As new roads are built, predominately in newly developed areas, such as West Oahu and Maui, this bill is directed at only those who live in these newly developed areas. If this measure allowed for existing roads to be tolled, I suspect many members of this body would then be in opposition, because this bill could then potentially impact their constituencies. But, if this bill allowed all roads to be tolled, then I submit this bill would be more equitable. Because, if one person paid a toll, then all persons would pay a toll."

Representative Saiki rose to yield his time, and the Chair "so ordered."

Representative Har continued, stating:

"Thank you, Representative. Interestingly, in a previous bill, the Chair of Transportation reminded us not to be provincial, because we represent the State. My concern is that this measure, and the language in this bill, basically takes out the ability to toll everybody in this State, and therefore, I have no choice but to be provincial.

"A fourth reason I am opposed to this bill, is because, not only does it target mainly residents of West Oahu and West Maui, but when tied to another bill before this Body, House Bill 1167, it creates a system of double payment for West Oahu and West Maui residents.

"A fifth reason I am opposed to this bill, is because it is dangerously similar to that of a regressive tax. A regressive tax is a tax that takes a larger percentage from the income of low income people, than the income of high income people. While the bill does not create a regressive tax, *per se*, what this bill does do is raise the issue of geographic equity. Mr. Speaker, geographic equity refers to issues surrounding how one part of the state is treated, compared to another. In the case of toll roads to be paid on by the residents of the Leeward side, I submit that geographic equity is an issue here.

"Proponents of this bill believe toll roads will work in Hawaii, because they have been successful on the Mainland. Again, Mr. Speaker, Hawaii is not like the Mainland, in that, on the Mainland, those with higher incomes typically live outside of the urban core, known as suburbia. Hawaii is exactly the opposite. Those with higher incomes generally live in the urban core, while those in lower income brackets live in Central and West Oahu, because the homes are more affordable.

"Moreover, there is no question when comparing the socio-economic demographics of those from East Honolulu or the Windward Side, from Leeward Oahu. As such, to expect residents of the Leeward side to bear the burden of a toll is essentially akin to a regressive tax, because lower income residents would now be required to pay an additional fee if they wanted to find a faster way to get into town.

"The sixth and final reason I am opposed to this bill, is because Hawaii simply does not have the population base, or even the projected population growth to support such toll roads. In his testimony before the Finance Committee last Session, Director of Transportation, Brennon Morioka testified that 21 other states have enacted legislation to enable public-private partnerships to finance highway capacity improvements. When asked if one of the key factors to the success of these public-private partnerships was population and ridership, Mr. Morioka answered in the affirmative.

"While the proponents of this measure believe that this bill will create a mechanism, by which a private entity will come to Hawaii, finance and build new roads, and then collect its investment through tolls, our State DOT Director has already been clear on this point. Our DOT has been in discussions with private financiers on the Mainland, about the possibility of toll roads in the State of Hawaii, and the private financiers have all unequivocally stated that they will not come to Hawaii to build a toll road, because we simply do not have the population base for them to charge. In other words, the private investors would never make up their investment on the backend, due to our limited population.

"This year, on February 27th 2009, before the House Finance Committee, the Deputy Director of Highways was explicitly asked whether anything had changed in these discussions with the DOT and the private financiers ..."

Representative Ito rose to yield his time, and the Chair "so ordered."

Representative Har continued, stating:

"Thank you, Representative. The Deputy of Highways was explicitly asked whether anything had changed in the discussions between the DOT and private financiers, indicating that private investors would now come to Hawaii to build toll roads. The Deputy Direct of Highways again confirmed DOT's talk with private financiers, and that the private investors would not come to Hawaii to build toll roads because these private

financiers would never be able to recoup the money via tolls they invested in building a toll road.

"While many hail public-private partnerships and the implementation of toll roads as a solution to building more roadways, there are additional dangers that exist. More prevalent now are the non-competition agreements that many private entities are imposing on states. Strapped for adequate road building funds, the California Legislature passed a law, enabling the California Transportation Department to entertain proposals for up four privately funded highway projects. The SR91 HOT Lane was the first project to be funded privately. The State awarded a private entity a contract to build a roadway down an SR91 median, for the purpose of adding additional lanes. The private entity, however, required the State of California to assent to the private company's requirement for a non-competition agreement, so that public highways near SR91 would not be maintained or improved until the year 2030. In other words, the State of California was to allow the state highways to crumble for decades, forcing the public onto the private toll road.

"The State of California eventually agreed that it could not leave the roads to deteriorate, and endanger drivers' lives, so it began fixing the nearby roads. The private entity sued the State of California for breach of contract, and the public learned the true costs of the private road. The public was furious, and turned against the project and the government that agreed to do it.

"Most recently, the General Accountability Office, the non-partisan Congressional investigative agency found that an increasing number of toll ways include non-competition clauses in their contract, under which the public sector agrees not to build any new road or improve any of the existing roads that may result in additional capacity, or the predetermined distance of a newly constructed road for a certain period of time. Where these agreements did not exist, there were understandings that the state would not build a competing road.

"SR91 experience has forced privatization proponents to find creative ways to achieve the same end. One way is to require the state to compensate the private owners for any revenues lost when improvements are made to nearby roads. California State Route 125 includes a provision that allows the State to build a competing, but only if the State reimburses the private company for revenues lost to the new road. Calculating these lost revenues is, again, an enterprise filled with uncertainty and opportunities for overreaching. This bill, Mr. Speaker, provides no safeguards against these dangers, which is yet another reason I am opposed.

"Finally, Mr. Speaker, I rise in opposition because I am not sure whether building more lanes on our freeways is the answer to our traffic woes. I am skeptical after witnessing the widening of the Waimalu viaduct in Pearl City. The State spent \$70 million to widen the H-1 Freeway, Ewa bound, to six lanes in Pearl City, alleviate congestion in Central Oahu. But, now that it is all said and done, the additional lanes have not really significantly improved the quality of traffic in Central Oahu.

"As such, I submit that we must continue to support alternative methods of transportation, such as fixed rail. The point is, in order to alleviate traffic, we must get people out of their cars, which is precisely why I support alternative methods of transportation, such as rail. Creating additional roads will only encourage people to remain in their cars. For these reasons, Mr. Speaker, I rise in strong opposition to House Bill 139, House Draft 2. Should this measure move forward, I ask my colleagues to consider the equitable arguments I have raised, and propose that if one person on this island is required to pay a toll, then all people living in Hawaii should have to pay a toll, since we all represent the State, and all laws should be applied fairly and evenhandedly. Thank you, Mr. Speaker."

Representative McKelvey rose in opposition to the measure and asked that the remarks of Representative Har be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Evans rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. I rise in support. Mr. Speaker, I will give three reasons why I think we should support the bill, but I first would like to start by telling a story. I lived in Kuala Lumpur for five years, and during that time, the traffic was horrendous. And, it reminds me of the traffic that we have today in Honolulu. We would go out on the freeway, we'd get caught in traffic, we'd try to go four miles and it'd take us an hour and a half. It was almost unbearable.

"I remember that the country, I thought got very innovative. What they did was they entered into these agreements to build some toll roads. But they didn't just build toll roads indiscriminately. They actually thought it through. Where were the main traffic patterns? How many people were on the roads? They needed relief immediately. They couldn't wait. They found that entering these partnerships would jump start it, and solve the problem.

"So, what they did, and what I saw, is that they gave people alternatives. And so, what would happen is, the regular roads were the same, and people could stay on them. People could be caught in traffic and sit in their cars. We're talking stop, go, stop, go, stop, go, for an hour and a half to get from point B to point A. Four or five miles. Or, they could pay some money, and jump on a toll road and get there quickly.

"And what I saw is, people actually did make those choices. And sometimes, you get in traffic situations and you need alternatives. I think what we're talking about, is giving DOT the potential of a tool, in areas where it's significantly jammed up.

"So, let's talk about the three reasons. The three reasons I believe is, yes, it's correct. Hawaii is very different. We're an island state. But when you're on an island state, you have a lot of restrictions on land. I'm fortunate. I've travelled. I've seen Hong Kong. I have seen Singapore. I've seen island states. You start putting a lot of cars there. Now mind you in Hawaii, we are limited. One of the things could do, is tell people they can't have more than two cars per household. Or, we could auction off cars and say that families can only get one car. If we're not willing to limit the cars that we have on an island, then we have to build roads. It's unfortunate, but I believe it's true. So yes, that's one reason we're an island state, and we don't limit the amount of cars that people can buy and purchase.

"Number two. Those of you who saw the newspaper not too long ago, saw that Hawaii was rated the worst traffic in the whole United States. The whole United States of America, and we get that reputation. That shows we haven't solved the problem. So, what are we doing to resolve the problem?

"And third, I'm always shocked when I talked to people in my district, and I say to them, I think we're paying up to \$5 million per mile for a road. Unbelievable. And we know what kind of situation we are in, in terms of our budget. So, this is not a bad idea to give DOT a tool to think about.

"In regards to any concerns about concessionaires, I know in Malaysia, when they gave these private sector people the ability to build a toll, they built into the project the fact that maybe 40 years later, it actually reverted back to the State, with ownership. But, they were required, when they owned that toll road, to maintain it. Those roads were spotless, they were clean, no potholes, maintained. But not those other roads. The alternative roads were a mess, with potholes. The state didn't keep up those roads. And so again, people had a choice, either you're being on those roads, public roads that were potholed, and had traffic for an hour and half to go four miles. Or they got and paid on a toll, and they were clean and spotless, and they were amazing. They even had good lighting.

"So, Mr. Speaker, those were the three reasons I think it's worth giving DOT the tool. I also want to comment that I have family in Chicago, so I go there every year. I've always ridden on a toll way. It's called the Indiana Tollway. I've always done it, every year. It's 40 cents. This last year it went up to \$1.10, but why? Brilliant. It used to be that on toll roads, you would just drive up, stop, throw your money in a basket and go through the toll road. Not anymore. Technology, electronics are amazing. They put a little thing on your windshield. They put money in a debit account ..."

Representative Magaoay rose to yield his time, and the Chair "so ordered."

Representative Evans continued, stating:

"So anyway, you would just drive as fast as if you were driving on the freeway. You can go 55, or 65. In Illinois, it's a little higher than here. So, 65 miles per hour. You drive right through. It has a camera, and bang. It deducts it from your account. So, traffic goes really fast, no slowdown. It's a fabulous system. And, I think that seeing it in Chicago, it's really helped alleviate the traffic jams there. So, Mr. Speaker, I support this bill. Thank you."

Representative Bertram rose to speak in support of the measure, stating:

"Yes, I rise in support. This is kind of strange, for somebody who's always talking about walking and biking, but there are several reasons.

"Number one is that, as much as I've voted with reservations on various bills to take away taxes, we are facing a very, very dire situation right now with our budget. We need to look at any answers that we can look at in maintaining our infrastructure, even in building new roads, which don't always have to be in new developments. You can put new roads in old developments too. So, there's no restriction in that sense.

"Number two is that, as much as ridership's increasing on transit, all across the nation, more people are walking and biking, more is going towards that. The fact of the matter is, the current land use patterns we have now are going to basically dictate that we are going to still be basically dependent on the car for probably another generation. I mean, it's going to take that long, even as we move to rail, even as we get more walking and biking, we're going to have to deal with the cars, and we're going to have to deal with it in much more creative ways than we've been left with so far.

"But, number three, basically is just that, we have to have a balanced transportation system. And, if we don't find different ways that we can finance this, we can't rely just on the federal government. That time is gone. We can't just rely on government for these things. If this is one tool that we can use to get public-private partnerships, we could. I did go to the NCSL conference. There was a whole thing on toll roads, and the stories were just mixed. There were some that were very successful. There were others that weren't as successful. But I think if we have a good oversight of how these are done, and we've learned from other places, we can do a good job. Thank you."

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

"Mr. Speaker, I'm speaking for the bill. I know that we're all tired. We've heard the pros and the cons from two great orators from both sides, and I think we've heard enough. So, Mr. Speaker, I'd like to call for the question."

At this time, Representative Souki called for the previous question.

The Chair then addressed the Members, stating:

"The question has been called at this point. Thank you. Before calling the question, the Chair will allow members to insert written comments at this point, for or against."

Representative Cabanilla rose to speak in support of the measure, stating:

"In strong support, Mr. Speaker. And, I would like to thank my colleagues for passing this legislation that would benefit everyone in Hawaii, and I would like to insert my two-page comment into the Journal. Thank you."

Representative Cabanilla's written remarks are as follows:

"Mr. Speaker, I support HB 139. The intent of this bill is to provide language in the HRS that will allow private developers to build roads at their own expense and then have a mechanism to recoup their investment. Any possible negative impacts of this program will be addressed in the pre-implementation stage of the build. This bill is intended to provide enabling legislation.

"Because of our diminished State budget, we aren't in the position to fund transportation projects, yet also because of the recession, the need for efficient transportation is even more vital, in order to keep our economy going. Public-private partnerships is a creative solution to this dilemma.

"Partnering with the private sector would help the State improve our transportation systems. By transferring a portion of the risk, planning, study, development, financing, and acquisition to a private entity, the State can meet its essential transportation needs.

"Toll roads are a new concept in our State, although it is used by 20 other states in the nation as a way to build themselves out of congestion. Traffic congestion remains the number one quality of life issue in the entire State. This condition is only worsening as there are no planned new freeways or highways up to the year 2030. And, in the meantime, more homes are being built every day. In Leeward and Central Oahu, there are 24,000 homes scheduled to be built as we speak. We have embraced the "no build" concept when it comes to our freeways and highways.

"We passed HB 70 last Session knowing that our government can no longer afford to build highways and freeways without raising taxes. As a legislator, I do not want to be the advocate of raising taxes.

This bill, HB 139, was crafted to merely provide enabling legislation. I believe that this Body and the State should provide options just like the City and County of Honolulu. There are measures before you to raise the cost of vehicle registration, vehicle tax, and additional tax of gasoline. I do not dispute the former two, however, increasing gasoline taxes will definitely tax those from the outlying areas, such as Ewa Beach who have to fill up their tank more often. So, Mr. Speaker, Members, we do not have an exit plan to paying for highways or freeways. If you ride the train, the bus, drive, you cannot escape the tax. So, paying a toll is not to say that you are paying more.

"Tolling for the creation of new roads is a very simple concept. A private company builds the road now and we get to use it right away. The mortgage is paid through the collection of tolls. If we wait for government to build the road, we will be waiting for decades. With the toll concept, once the contractor has been paid off through toll collection, the road can then become a free road. The public roads will still be there for those who do not want to pay. Even they will still benefit from it, because the free road will be less congested. The savings on fuel, and the amount of time spent behind the wheel are very attractive to consumers.

"I believe that toll roads are a crucial component of the overall plan of improving transportation for a fiscally constrained state such as ours. I ask that my colleagues support this bill."

Representative Ching rose in opposition to the measure and asked that her written remarks, and the remarks of Representative Har be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition to H.B. 139 - Relating to Transportation. I am concerned this bill might be detrimental to the long-term public interest because it relinquishes public control over transportation policy while failing to deliver the value comparable to the tolls that the public will be forced to pay for the duration of the agreement. Thank you."

Representative Awana rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Awana's written remarks are as follows:

"Mr. Speaker, I rise in strong support. This measure provides for options to address the infrastructure shortages; in particular, lack of roads – a statewide issue. I believe that we should keep our options open by passing this measure.

"There are toll roads in many major cities throughout the United States. The Federal Highway Administration documented toll roads even in Puerto Rico – 22 tolls in an island territory. Public-private partnerships have become an option as it leverages state funds with private funds to help the general public. The reality faced before us is that the economic environment can no longer provide for State tax dollars and or State matching funds to adequately keep up with the number of roads needed in accordance to the rate of growth that we are experiencing.

"In addition, before major roadway projects are undertaken, community meetings and input is accepted in the affected communities. If this measure does not pass, my fear is that those who need congestion alleviation will not be allowed options and be forced to wait hours to get to and from work. The Oahu Metropolitan 2030 Plan reflects an 80 minute commute for those in the rural areas such as the Waianae Coast and the North Shore.

"Let's keep an open mind on this measure, keep our options open and keep this measure moving. Thank you, Mr. Speaker."

Representative M. Lee rose in support of the measure with reservations and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative M. Lee's written remarks are as follows:

Mr. Speaker, I stand with reservations on this bill, which would allow the State to enter into agreements with private entities to building, operate own, or finance newly constructed transportation facilities, including toll highways.

"Before we take this route, we must thoroughly examine what such a change in public policy would mean for our State. There is a growing trend in the United States for privately financed roads. Many see privately operated toll roads as a panacea for our traffic problems, as they have the potential to increase the capacity of our roadways without raising taxes. Others encourage the construction of toll roads as an alternative for a transit system.

"Chicago and Indiana entered into private concession agreements for public roads, which extend as long as 99 years. America has been more resistant to free-market infrastructure construction than the rest of the world, but as bridges and roads deteriorate, private investment groups see great opportunities to reap profits over the long term.

"Add to that, the Federal Highway trust fund is billions of dollars in debt, and many feel an increase in the federal fuel tax is long overdue. Hawaii is a donee rather than a donor state, which means it gets more from the highway fund than it puts in. Predictions are that raising the federal fuel tax by 3 cents a gallon would raise millions in revenue, while costing the average driver about \$7.06 a year. Even this would not be enough.

"According to the U.S. Transportation Department, the cost of fixing the highways and bridges of the United States exceeds \$495 billion. If railroads and ports are included, the cost exceeds \$1.6 trillion. Although Chicago and Indiana have forged ahead, opposition prevails in states like Pennsylvania, New Jersey and Texas.

"Modern transit solutions take cars off the road, reduce traffic, shorten commuter time, improve the public health, provide reliability and increase the quality of life—all leading to economic well-being. Toll road solutions and road privatization are policies that will put more cars on the road and in the long run might provide enormous profits for investors who expect rising tolls to justify their investment, putting even more of a burden on taxpayers.

"U.S. PIRG, a federation of state public interest research groups, an independent, citizen-funded group, is working to encourage public support

for new public transportation projects and improved service, while making sure that privatization and toll road deals are in the public interest.

"A report from U.S. PIRG cites the effect of multi-million dollar deals in Chicago and Indiana, which have encouraged Wall Street investors and high-priced consulting firms to promote such deals to state and local government. In anticipation of huge profits, private road operators are promising miracles for our congested roads and highways.

"Some would argue that this path is necessary because neither the state nor the counties have sufficient funds to build more highways. U.S. PIRG cautions that through such deals, the public loses control of transportation policy, and there is no guarantee that toll roads will deliver their promised value. The report cites such problems as an inability to prevent toll traffic from being diverted to local communities and difficulty changing traffic patterns on toll roads without paying additional compensation to road operators. The U.S. PIRG report also notes the difficulty of ensuring fair contracts when they stretch over multiple generations and changing community needs.

"As public officials, we have a responsibility to protect the public interest. Before we enter into any agreements allowing the Governor or the Department of Transportation to enter into private agreements, we must thoroughly investigate this change in public policy. Selling our roads to put more cars in service would not be the responsible choice."

Representative Ward rose to speak in support of the measure, stating:

"Mr. Speaker, in support. With half of my family living in Kuala Lumpur, I am in support."

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

"Mr. Speaker, I have some grave, grave reservations. Thank you."

Representative Belatti rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Tokioka rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Carroll rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 139, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Third Reading by a vote of 39 ayes to 11 noes, with Representatives Aquino, Berg, Ching, Coffman, Har, C. Lee, Manahan, McKelvey, Rhoads, Tokioka and Yamane voting no, and with Representative Takai being excused.

At 8:22 o'clock p.m., the Chair noted that H.B. No. 139, HD 2, passed Third Reading.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 900) recommending that H.B. No. 1187, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1187, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Cabanilla rose to speak in support of the measure, stating:

"Mr. Speaker, can I please be recognized? I haven't spoken tonight, and I would like to give the closing remark on this matter.

"House Bill 1187 is the Return to Home program. The purpose of the Return to Home program is to assist homeless people from other states,

voluntarily returning to home. This is not meant to solve the entire homeless problem, but it is a compassionate bill to repatriate and return our homeless population to their home for those who have encountered the harsh reality of homelessness in Hawaii. This is meant for the out-of-state homeless that already have family, friends, or other support services in the place where they are requesting transfer.

"Social services costs for the homeless is \$35,000 to \$45,000 a year per person. 40% of the homeless population are from the Mainland, and a good number of them want to go home, and have families to go home to, but rather cannot afford the airfare to go home.

"Mr. Speaker, if this bill should die today, I want it to be remembered as the Family Reunification Bill. A compassionate bill that remembered those unfortunate human beings, and cannot afford to pay their way home.

"The proponents of this bill are already doing this. It is just because of strained budgetary needs and diminishing grants-in-aid, they may not be able to continue doing this humanitarian act.

"Mr. Speaker, this bill is heavily supported by so many individuals, organizations, and businesses. Practically, no one came to the hearing to oppose this bill, but rather, we received so much accolades in the merit of the bill.

"There is concern of being misused, and the bill will encourage more homeless people to come to Hawaii. It costs money to come to Hawaii, and a one-way ticket costs just as much as a round trip ticket. Homeless people from elsewhere cannot afford to come here, unless someone sponsors them, and other states have done so. This is only a two-year pilot project. If we do not start it now, we will never know what we need to fix, to address these concerns.

"Yesterday, I called the Waikiki Health Center, because during Caucus, they was concern about this program being misused. They gave me two examples, Mr. Speaker. The Honolulu Police phoned the Waikiki Health Center, and told them of a homeless heroin addict who wanted to go home to the Mainland. The Waikiki Health Center contacted his family, who said they would be happy to receive him, but didn't have the funds to pay for his ticket. He was a perfect candidate for the program.

"On the other hand, a couple came in, requesting tickets to go to Florida to be with her dying mother. They were turned down. The homeless advocates truly will screen to make sure that this program is used exclusively for actual homeless people.

"So, Mr. Speaker, I'm here to say that we will be remembered for this bill that we're passing tonight. This is a family reunification bill, a repatriation bill, and very compassionate act from this Chamber. I thank you for your support."

Representative Rhoads rose to speak in opposition to the measure, stating:

"Mr. Speaker, in opposition. As the Representative of the Chinatown area, I have taken a number of stances that people considered not to be very humane, but if you live there long enough, I think you'll understand why I have. But, I oppose this bill, mainly because I worry that once jurisdictions on the Mainland realize what we're doing, they're going to turn around and say, 'Well, if they're sending us their homeless, we'll do the same thing to them.' The problem with that scenario is that if California, just one state in the Union sent us 5% of their homeless, we'd be totally inundated, whereas we could send every single one of our homeless people in the whole State, and they probably wouldn't even notice the difference. So, I am very reluctant to get in a dumping-our-homeless-on-you situation. And, that's the main reason I don't support the bill. Mahalo."

Representative Yamane rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. Standing in opposition, brief comments. Mr. Speaker, I wasn't planning to speak, but I need to make several comments.

"I guess for several of us, we have different definitions of what 'compassionate' is. 'Compassionate' to me is not looking at a client, or an individual, based on a \$35,000 to \$40,000 price tag for services, versus a \$300 to \$500 ticket back to the mainland. 'Compassionate' or 'passion,' or whatever you want to call it, is the issue of understanding the person you're dealing with, and looking at options, and working with them. Sending people who are homeless, because they claim or may claim that to have family on the Mainland is not an adequately, or appropriate way of treating our homeless.

"These people deserve dignity. They deserve our time. They deserve our respect to work with them.

"I heard the issue about family reunification. Mr. Speaker, family, and addressing the issue is, we have to look at what this State is called. We look around, Mr. Speaker, and we help our neighbors. We help those in need. We give our time. We call the State of Hawaii the 'Aloha State', so, why don't we change our name? The Aloha State, that if you're homeless will send you away. Thank you, Mr. Speaker."

Representative McKelvey rose in opposition to the measure and asked that the remarks of Representative Rhoads and Yamane be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Har rose to speak in opposition to the measure, stating:

"In opposition with brief comments, Mr. Speaker. I stand in opposition for two reasons. First of all, this bill purports to us general fund moneys. As we know, we are looking at a \$1.8 billion shortfall. This is not a priority at this time.

"Secondly, and quite frankly, Mr. Speaker, this is just bad policy. This is not something that should be put in a bill, and this is not good policy for the people of Hawaii. Thank you, Mr. Speaker."

Representative Choy rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Wooley rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Carroll rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Aquino rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1187, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOMELESS," passed Third Reading by a vote of 38 ayes to 12 noes, with Representatives Belatti, Berg, Har, Manahan, Marumoto, McKelvey, Pine, Rhoads, Saiki, Thielen, Tokioka and Yamane voting no, and with Representative Takai being excused.

At 8:32 o'clock p.m., the Chair noted that H.B. No. 1187, HD 1, passed Third Reading.

#### SUPPLEMENTAL CALENDAR # 1

#### STANDING COMMITTEE REPORTS

Representative Carroll, for the Committee on Hawaiian Affairs presented two reports:

(Stand. Com. Rep. No. 974) recommending that H.R. No. 61, be adopted; and

(Stand. Com. Rep. No. 975) recommending that H.C.R. No. 75, be adopted.

Representative B. Oshiro moved that the reports of the Committee be adopted, and that H.R. No. 61 and H.C.R. No 75, be adopted, seconded by Representative Evans.

Representative Carroll rose in support of both measures, stating:

"Mr. Speaker, I am in strong support."

Representative Sagum rose in support of both measures and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Sagum's written remarks are as follows:

"Mr. Speaker, I rise in support of both HR61 and HCR 75: Requesting the United States Postal Service to Issue a Stamp honoring Prince Jonah Kuhio Kalaniana'ole.

"Prince Jonah Kuhio Kalaniana'ole was born in the Koloa district of Kauai on March 26, 1871. At the time of his death on January 7, 1922 he held various positions from Prince to Hawaii's delegate to Congress from 1903 to 1921. Among the outstanding achievements during his twenty years in Congress were:

- 1) The retention of the Kalaupapa Leper Settlement;
- 2) The creation of county governments with elected officials;
- 3) The development of Pearl Harbor and army installations on Oahu;
- 4) Funding for improvements of harbors at Honolulu, Hilo, Kahului and Nawiliwili;
- 5) The enactment of the Hawaiian Homestead Act;
- 6) The creation of the Kilauea volcano areas as Hawaii National Park; and
- 7) The Rehabilitation Act, better known as the Hawaiian Home Commission Act.

"Prince Kuhio was the last Hawaiian who by right of blood and designation could have claimed the crown of Hawaii.

"It would honor the memory of a great *ali'i* of Hawaii to have the United States Postal Service to issue a stamp honoring Prince Jonah Kuhio Kalaniana'ole. Thank you, Mr. Speaker."

Representative Ching rose in support of both measures and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in strong support of H.R. 61 and H.C.R. 75 - Requesting the United States Postal Service to Issue a Stamp Honoring Prince Jonah Kuhio Kalaniana'ole. I believe Prince Jonah Kuhio Kalaniana'ole deserves the merit of these Resolutions. If you look at this man's body of work you will see a man who served Hawaii without hesitation. Prince Jonah Kuhio Kalaniana'ole had many accomplishments throughout his life such as creating the Hawaiian Home Lands and being elected to Congress and serving on the Military Affairs Committee.

"In 1902 Prince Jonah Kuhio Kalaniana'ole founded the Republican Party in Hawaii and in doing so brought the principles and ideals of freedom and equality to the Hawaiian people. I cannot think of a better person to have carried the torch of Abraham Lincoln to Hawaii than Prince Jonah Kuhio Kalaniana'ole. Thank you."

Representative McKelvey rose in support of both measures, stating:

"Mr. Speaker, I am in strong support."

Representative Awana rose in support of both measures, stating:

## HOUSE COMMUNICATION

"Mr. Speaker, I am in strong support."

The motion was put to vote by the Chair and carried, and the reports of the Committee were adopted and H.R. No. 61, entitled: "HOUSE RESOLUTION REQUESTING THE UNITED STATES POSTAL SERVICE TO ISSUE A STAMP HONORING PRINCE JONAH KUHIO KALANIANAOLE," was adopted, with Representative Takai being excused; and

H.C.R. No. 75, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE UNITED STATES POSTAL SERVICE TO ISSUE A STAMP HONORING PRINCE JONAH KUHIO KALANIANAOLE," was adopted, with Representative Takai being excused.

Representative Carroll, for the Committee on Hawaiian Affairs presented a report (Stand. Com. Rep. No. 976) recommending that S.B. No. 1677, SD 1, pass Second Reading and be referred jointly to the Committee on Water, Land, & Ocean Resources and the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 1677, SD 1, entitled: "A BILL FOR AN ACT RELATING TO LANDS CONTROLLED BY THE STATE," passed Second Reading and was referred jointly to the Committee on Water, Land, & Ocean Resources and the Committee on Judiciary, with Representative Takai being excused

## ANNOUNCEMENTS

Representative McKelvey: "Thank you very much, Mr. Speaker. Mr. Speaker, on Saturday, Hawaii lost one of its own brave servicemen who was defending our freedom in Iraq. First Lieutenant Daniel Hyde, of Modesto, California, who was a graduate of West Point, was killed Saturday in Samar, Iraq, when a RPG, or rocket propelled grenade, slammed into his HMMWV, killing him.

"His sister eloquently described that basically he wouldn't sit by and let others do the job. He would do the job for them. He showed true leadership all the time, and especially in the most tragic moment of his life. He was a platoon leader in the 25th Infantry Division, 2nd Battalion, the 35th Infantry Regiment, and it was his first deployment since he graduated from West Point in 2007.

"First Lieutenant Daniel Hyde was 24 years old and was stationed at Schofield Barracks. I'd like to ask, Mr. Speaker, if we could observe a moment of silence for Lieutenant Daniel Hyde when appropriate. Thank you."

Representative Marumoto: "Mr. Speaker, it's my understanding from reading the newspaper, that former Representative Ted Mina passed away, and he served in the Legislature many decades ago. I wonder whether we could also have a moment of silence at the same time for him."

Representative M. Lee: "Yes, I'd just like to announce that the Finance Committee will be holding a hearing tomorrow at 11 a.m. in Room 308 to hear the State budget, OHA and Judiciary budgets. Thank you."

At this time, the House of Representatives stood for a moment of silence in honor of the late Lt. Daniel Hyde and former Representative Ted Mina.

## ADJOURNMENT

At 8:37 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 Thursday, March 12, 2009. (Representative Takai was excused.)

"March 10, 2009

The Honorable Linda Lingle  
Governor of the State of Hawaii  
Executive Chambers  
State Capitol  
Honolulu, Hawaii 96813

Dear Governor Lingle:

In accordance with the provisions of Article XVII, Section 3 of the Hawaii State Constitution, written notice is hereby given of the final form of the following House Bill, a copy of which is attached hereto:

H.B. No. 993, H.D. 2, entitled:

"PROPOSING AN AMENDMENT TO THE HAWAII CONSTITUTION, RELATING TO THE DISPOSITION OF PROJECTED EXCESS REVENUES."

Said measure passed Third Reading in the House of Representatives on this date.

Respectfully,  
/s/  
PATRICIA MAU-SHIMIZU  
Chief Clerk

Enclosure

CC: Carol Taniguchi, Clerk of the Senate  
Kevin Cronin, Chief Election Officer"

ROUGH DRAFT