

**HAWAII STATE  
HOUSE OF REPRESENTATIVES**

**REGULAR SESSION OF 2009**

***ROUGH DRAFT  
JOURNAL***

**FORTY-SIXTH DAY**

**APRIL 14, 2009**

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## FORTY-SIXTH DAY

Tuesday, April 14, 2009

The House of Representatives of the Twenty-Fifth Legislature of the State of Hawaii, Regular Session of 2009, convened at 9:06 o'clock a.m., with the Speaker presiding.

The invocation was delivered by Mr. Ryan Kalei Tsuji, son of Representative Clift Tsuji, after which the Roll was called showing all members present with the exception of Representatives Bertram, Morita and Takai, who were excused.

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

## GOVERNOR'S MESSAGE

The following message from the Governor (Gov. Msg. No. 286) was received and announced by the Clerk and was placed on file:

Gov. Msg. No. 286, informing the House that on April 9, 2009, the following bill was signed into law:

H.B. No. 442, entitled: "A BILL FOR AN ACT RELATING TO THE LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD." (ACT 003)

## SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 482 and 483) were received and announced by the Clerk:

Sen. Com. No. 482, transmitting S.C.R. No. 89, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE CLEAN UP AND INVESTIGATION OF ILLEGAL DUMPING AND ILLEGAL STRUCTURES AT LAUMAILE STREET IN KALIHI AND THE DEVELOPMENT AND IMPLEMENTATION OF MEASURES TO PREVENT ILLEGAL DUMPING AND ILLEGAL STRUCTURES IN THE AREA," which was adopted by the Senate on April 9, 2009.

Sen. Com. No. 483, dated April 9, 2009, informing the House that the President has appointed as conferees on the part of the Senate, for the consideration of amendments proposed by the House to the following Senate Bills:

S.B. No. 58, SD2, HD1	Baker, Chair; Taniguchi, Co-Chair; Hemmings
S.B. No. 203, SD2, HD1	Baker, Chair; Taniguchi, Co-Chair; Hemmings
S.B. No. 440, SD2, HD1	Sakamoto, Chair; English, Co-Chair; Kidani, Hemmings
S.B. No. 823, SD1, HD1	Takamine, Chair; Taniguchi, Slom
S.B. No. 940, SD1, HD1	Ige, Chair; Baker, Co-Chair; Green, Hemmings
S.B. No. 1065, SD2, HD1	Gabbard, Chair; Fukunaga/Baker, Co-Chairs; Green, Hemmings
S.B. No. 1195, SD1, HD2	Fukunaga, Chair; Hee, Co-Chair; Hemmings

## INTRODUCTIONS

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

Representative Finnegan introduced 9th grade students from Assets High School and their teachers Mr. Jason Wagner, Ms. Aina Badua and Mr. Miles Yamamoto.

Representative M. Lee introduced Ms. Bree Davis, a member of her legislative staff and the U.S. Air Force Reserve who was leaving for service in Iraq. She was accompanied by her legislative staff, Mr. Lloyd Nakahara, Mr. Shawn Leavey and Office Manager, Ms. Ann Thornock.

## ORDER OF THE DAY

## COMMITTEE ASSIGNMENTS

The following measures were referred to committee by the Speaker:

S.C.R.  
Nos.Referred to:

64, SD1	Committee on Labor & Public Employment, then to the Committee on Finance
67, SD1	Committee on Labor & Public Employment, 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 Senate bills for Third Reading by consent calendar. (Representatives Morita and Takai were excused.)

## CONSENT CALENDAR

## UNFINISHED BUSINESS

At this time the Chair stated:

"Members, at this time we will be taking up all the items on the Consent Calendar that are listed on pages 2 through 10. Members, at this time there will be no discussion, as these items are agreed upon by the Body for placement on the Consent Calendar."

Representatives Herkes and Karamatsu, for the Committee on Consumer Protection & Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1591) recommending that S.B. No. 300, SD 2, 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 S.B. No. 300, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1595) recommending that S.B. No. 937, 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 S.B. No. 937, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MENTAL HEALTH," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1596) recommending that S.B. No. 1259, SD 2, 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 S.B. No. 1259, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL RESPONSE," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1621) recommending that S.B. No. 979, SD 2, 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 S.B. No. 979, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMERCIAL DRIVERS," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1623) recommending that S.B. No. 931, SD 1, 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 S.B. No. 931, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EPIDEMIOLOGIC INVESTIGATIONS," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1624) recommending that S.B. No. 119, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 119, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM FOREIGN-COUNTRY MONEY JUDGMENTS RECOGNITION ACT," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1625) recommending that S.B. No. 862, SD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 862, SD 2, pass Third Reading, seconded by Representative Evans.

Representative Har's written remarks are as follows:

"Mr. Speaker, I rise in strong support of Standing Committee Report No. 1625, Senate Bill 862, Senate Draft 2, Relating to Housing. SB862 is the companion bill to HB1044, which I also supported. SB 862, SD2 enables HHFDC to more easily collect the value of shared appreciation equity (SAE) and other restrictions when an affordable housing property is publicly sold through a foreclosure. It also requires written notification of intent to foreclose on properties encumbered by such priority liens.

"Passage of this bill will allow the HHFDC and county housing agencies to avoid costly litigation when enforcing their claims on affordable for-sale homes undergoing foreclosure. The sale of affordable housing properties sponsored or assisted by the HHFDC is subject to a buyback restriction and a shared appreciation equity (SAE) lien. The HHFDC has provided deferred sales price liens to assist low or moderate income homebuyers in purchasing a first home. Upon the sale or transfer of an HHFDC-assisted home, the SAE is collected and deposited into the Dwelling Unit Revolving Fund, where it can be used to support the development of additional affordable housing projects.

"Recently, the HHFDC has not been receiving sufficient prior notice of foreclosure proceedings on HHFDC-assisted properties. The lack of sufficient advance notice makes it difficult for HHFDC to prepare to bid at foreclosure sales. This measure would afford the HHFDC with notice of intent to foreclose forty-five days before commencement of the foreclosure. This notice period would allow HHFDC sufficient time to

conduct due diligence and, when appropriate, to prepare to bid at the foreclosure sale.

"Additionally, because this clarifies that SAE or other government entity liens are priority liens, a mortgagee pursuing foreclosure must satisfy the amount due to the HHFDC before claiming a property at auction. The HHFDC has had to intervene in over 50 bankruptcy and foreclosure actions and litigate to assert their rights as a priority lien holder. This bill will protect HHFDC's lien rights in the event of foreclosure, and enable them to recover funds to support the development of additional housing. For these reasons, I strongly support this measure. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 862, SD 2, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1627) recommending that S.B. No. 880, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 880, entitled: "A BILL FOR AN ACT RELATING TO GAS PIPELINE SYSTEMS," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1628) recommending that S.B. No. 947, SD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 947, SD 1, entitled: "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT CONTRIBUTION RATES," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1629) recommending that S.B. No. 39, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 39, entitled: "A BILL FOR AN ACT RELATING TO REPORTS ON THE HAWAII CANCER RESEARCH SPECIAL FUND," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1630) recommending that S.B. No. 160, SD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 160, SD 2, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL MEALS," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1631) recommending that S.B. No. 162, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 162, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1632) recommending that S.B. No. 163, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 163, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1634) recommending that S.B. No. 1250, SD 1, 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 S.B. No. 1250, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1635) recommending that S.B. No. 528, SD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 528, SD 1, entitled: "A BILL FOR AN ACT RELATING TO TOBACCO," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1638) recommending that S.B. No. 585, SD 2, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 585, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I support SB 585, SD2 HD 1 which will ensure access to prescription medications in rural and underserved areas. This measure allows remote dispensing pharmacies in health maintenance organization facilities, or in areas that are at least five miles from another pharmacy.

"This bill will alleviate hardships for a segment of our population who do not have convenient access to a pharmacy near their home or where the clinic does not have a pharmacist. The Island of Lanai, for example, will benefit from the enactment of this bill. Lanai is a community particularly affected by its remoteness and is an underserved population. Lanai has no pharmacy. Its residents have to travel to Oahu or Maui in order to obtain their medication. Passage of this bill will allow Lanai residents to obtain their medications from a remote dispensing pharmacy kiosk located in a clinic such as Lanai Community Health Center.

"This bill also benefits those who are members of Health Maintenance Organizations (HMO) that have clinics in rural areas, but have no pharmacist in the clinic. The HMOs, however, do have pharmacists in the hospital who can supervise the remote dispensing of medications in the clinic.

"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 S.B. No. 585, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REMOTE DISPENSING," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1640) recommending that S.B. No. 843, SD 1, 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 S.B. No.

843, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SENTENCING," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1641) recommending that S.B. No. 896, SD 1, 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 S.B. No. 896, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CIVIL SERVICE LAW," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1644) recommending that S.B. No. 91, SD 2, 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 S.B. No. 91, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO COMMUNITY-BASED ECONOMIC DEVELOPMENT," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1645) recommending that S.B. No. 523, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 523, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Magaoay's written remarks are as follows:

"Thank you, Mr. Speaker. Mr. Speaker, I rise in support of Senate Bill 523, S.D. 2, H.D. 2. Mr. Speaker, this piece of legislation amends the High Technology Research and Development loan and grant program allowing the State to catch up to increased federal award amounts.

"This bill proposes a modification to HRS Section 206M-15, which defines how the High Technology Development Corporation may grant funds to Hawaii companies that have been awarded federal Small Business Innovation Research Phase I awards and federal Small Business Technology Transfer Phase I awards.

"The Hawaii Matching Grant Program helps support Hawaii companies by matching federal awards at 50 per cent, but not to exceed \$25,000. This matching formula was created when the maximum Phase I federal award was \$50,000. This measure would remove this cap and the Hawaii matching grant would be at 50 per cent of the federal award. This is a vital improvement as the present Phase I federal average award is \$100,000 or more.

"The current \$25,000 Hawaii match has not kept up with the increased federal funding levels and this amendment would remedy the imbalance. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 523, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HIGH TECHNOLOGY," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1647) recommending that S.B. No. 161, 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 S.B. No. 161, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1649) recommending that S.B. No. 501, 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 S.B. No. 501, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE TEACHER EDUCATION COORDINATING COMMITTEE," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1651) recommending that S.B. No. 1329, SD 2, 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 S.B. No. 1329, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EARLY LEARNING," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1653) recommending that S.B. No. 887, SD 1, 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 S.B. No. 887, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ESCROW DEPOSITORIES," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1654) recommending that S.B. No. 892, SD 1, 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 S.B. No. 892, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1655) recommending that S.B. No. 1107, SD 2, 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 S.B. No. 1107, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1658) recommending that S.B. No. 423, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 423, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Magaoay's written remarks are as follows:

"Thank you, Mr. Speaker. Mr. Speaker, I rise in support of Senate Bill 423, S.D. 1, H.D. 2. The measure we have before us appropriates money to match federal funds for Medicaid.

"Mr. Speaker, Hawaii has a population of low-income citizens with limited healthcare options. Among them are our low-income elderly who are disproportionately affected by the rising costs of healthcare and other daily expenses.

"This measure provides an appropriation, enabling Hawaii to become eligible to receive Disproportionate Share Hospital Program funding from

the federal government in the amount of \$12,500,000. Congress established the Disproportionate Share Hospital Program in 1981 to help ensure that states provide adequate financial support to hospitals that serve a significant number of low-income patients with special needs. Since 1993, as part of the agreement when Med-Quest was established, Hawaii did not qualify for Disproportionate Share Hospital dollars. This bill would authorize \$10,181,909 as the State's matching share.

"The real problem facing all Hawaii Hospitals is inadequate reimbursement by Medicaid and Medicare for medical services. On average, Hawaii hospitals lose 20 cents on every \$1.00 spent to provide care for a Med-QUEST patient and 21 cents on every Medicare patient. Hawaii Pacific Health provides care for thirty six percent (36%) of the total State Medicaid/QUEST discharges and loses tens of millions of dollars each year in order to provide care for these patients.

"The status quo of inadequate reimbursement by government payers is unsustainable. As cumulative losses to Hawaii hospitals continue to grow, the real costs to the community of inadequate reimbursement are physician attrition, patient access to specialty care, and compromised quality of care. The only way to maintain the level of healthcare Hawaii's residents deserve is to ensure that the State pays its fair share of Medicaid costs.

"Mr. Speaker, our Congressional representatives worked hard to ensure that Hawaii be eligible for receiving adequate Disproportionate Share Hospital Program funds this fiscal year. SB 423 would be a significant step in helping to address the current healthcare crisis by ensuring that adequate resources are made available to cover the true costs of providing care. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 423, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1659) recommending that S.B. No. 427, 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 S.B. No. 427, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAXATION," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1662) recommending that S.B. No. 1263, SD 2, HD 2, as amended in HD 3, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1263, SD 2, HD 3, pass Third Reading, seconded by Representative Evans.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, and the report of the Committee was adopted and S.B. No. 1263, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO TATTOO ARTISTS," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1664) recommending that S.B. No. 1046, SD 1, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1046, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Magaoay's written remarks are as follows:

"Mr. Speaker, I rise in strong support of Senate Bill 1046. Mr. Speaker, the passage of SB1046 is essential because it is a road through which we are able to provide health care to the most rural areas of Hawaii. These are

the areas that currently receive little or no medical assistance. In this day and age, it is essential to be innovative in creating ways to provide health services to all members of our State. SB1046 is one of these innovative ways.

"This bill will fund students of the Quentin Burdick Rural Health Interdisciplinary Training Program (QB), giving them an opportunity to work in rural areas of Hawaii and service the people who live there. While this bill will not solve the recruitment and sustainment of the health workforce in rural areas, it does provide a constant flow of healthcare students to these areas. It also gives students exposure to the needs of rural areas and the job opportunities that are available, with some of these students taking the opportunity to work these areas.

"Some of the programs and initiatives that have been set through the 10-year relationship of between QB students and our rural areas include advanced directives for *kupuna*, programs that help rural residents apply and prepare for college, and many other programs. As mentioned before, this program has been in effect for 10 years. By not providing more funding to this program, we will be removing an integral part of the health care system in rural areas. It is because of this reason, that it is essential to pass SB1046 and provide continual support for this program.

"Thank you Mr. Speaker, and I am asking 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 S.B. No. 1046, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH PROFESSIONAL EDUCATION," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1665) recommending that S.B. No. 1674, SD 2, 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 S.B. No. 1674, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1666) recommending that S.B. No. 718, SD 1, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 718, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise in support of SB718 SD1 HD1 to require the adoption of a statewide "complete streets" policy.

"This bill makes the modest requirement that all roads, streets and highways constructed or maintained by the State or counties make reasonable accommodation for convenient access and mobility for all users -- not just cars.

"While the Department of Transportation has testified that building complete streets would cost too much, sadly we see what it costs in terms of tragic pedestrian accidents, countless lost hours stuck in traffic, billions from the local economy thrown down the tube to foreign oil, and the marginalization of an estimated one third of the public that doesn't own a car. When we don't have complete streets, our streets are not safe for every user and our roads are not inviting to all modes of transportation.

"Contrary to DOT testimony, this is not a mandate without flexibility. SB718 includes reasonable exemptions for highways, for example, where bikes and pedestrians are prohibited, and for projects in sparsely populated areas that would cost too much for their low probable use.

"And the taskforce called for in the bill should help resolve some of the questions heard in the testimony and bring groups together.

"Mr. Speaker, I am very optimistic that complete streets will revitalize our communities simply because the policy requires we build what's missing, like street and sidewalk lighting, beautiful landscaping, feeder routes, and safe bikeways.

"Let's ensure our beautiful island towns and cities have complete streets. Through this simple policy, we will be improving safety, reducing car congestion, cutting the foreign oil habit and improving public health, just by encouraging walking and biking. I urge passage of SB718. Mahalo."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 718, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1671) recommending that S.B. No. 309, 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 S.B. No. 309, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1674) recommending that S.B. No. 564, SD 2, 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 S.B. No. 564, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FIRE PROTECTION," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1675) recommending that S.B. No. 967, SD 2, 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 S.B. No. 967, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1678) recommending that S.B. No. 851, SD 1, 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 S.B. No. 851, SD 1, HD 3, entitled: "A BILL FOR AN ACT RELATING TO CHILD SUPPORT ENFORCEMENT," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1680) recommending that S.B. No. 914, SD 2, 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 S.B. No. 914, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1683) recommending that S.B. No. 521, SD 2, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 521, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I support SB 521, SD 2, HD 1, Relating to Real Property, which would provide the counties an image and index of all deeds and instruments filed or recorded with the assistant registrar within ten days free of charge.

"This bill will help all the counties make timely, cost-effective and accurate real property tax assessments while minimizing costs to all taxpayers.

"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 S.B. No. 521, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY," passed Third Reading by a vote of 48 ayes to 1 no, with Representative Finnegan voting no, and Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1684) recommending that S.B. No. 522, SD 2, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 522, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I support SB 522, SD 2, HD 1, Relating to Land Court, which would provide the counties an image and index of all deeds and instruments filed or recorded with the assistant registrar within ten days free of charge.

"This bill will help all the counties make timely, cost-effective and accurate real property tax assessments while minimizing costs to all taxpayers.

"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 S.B. No. 522, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND COURT," passed Third Reading by a vote of 48 ayes to 1 no, with Representative Finnegan voting no, and Representatives Morita and Takai being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1687) recommending that S.B. No. 714, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 714, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Har's written remarks are as follows:

"Mr. Speaker, I stand in strong support of Standing Committee Report No. 1687, Senate Bill 714, Senate Draft 1, House Draft 2, Relating to High Occupancy Vehicle Lanes. This is the companion bill to House Bill 866, which I introduced. This bill would allow all motor vehicles, regardless of the number of persons on board, to use high occupancy vehicle lanes or zipper lanes when one or more lanes of traffic have been shut down by law enforcement officers or emergency services personnel. It would also allow the Director of Transportation to declare an emergency to open use of HOV and zipper lanes.

"As commuters from the Leeward side know, many long hours that could be better spent at work or with family are spent commuting. Adding

to our commute time are accidents or other incidents on the freeway. For every minute that an incident (i.e. stall, blown-out tire, car accident) remains on the freeway, that incident causes 10 minutes of backlog in traffic adding more wasted time and gridlock to an already stressful commute. Currently, the HOV/zipper lanes are overly restrictive and underutilized. As such, there must be more flexible use of the HOV and zipper lanes, particularly when incidents cause a lane to be closed on the freeway. As Hawai'i already has limited lane miles, we must make full use of all lanes to mitigate traffic and reduce time on the road. For these reasons, Mr. Speaker, I stand in strong support. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 714, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HIGH OCCUPANCY VEHICLE LANES," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1688) recommending that S.B. No. 1005, SD 2, 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 S.B. No. 1005, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLICITY RIGHTS," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1689) recommending that S.B. No. 1056, SD 2, 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 S.B. No. 1056, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO COMMERCIAL DRIVERS," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1690) recommending that S.B. No. 1183, SD 2, 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 S.B. No. 1183, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO DISCRIMINATORY PRACTICES," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1691) recommending that S.B. No. 301, SD 2, 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 S.B. No. 301, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII REGISTERED AGENTS ACT," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1695) recommending that S.B. No. 109, SD 2, 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 S.B. No. 109, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO THE INTERSTATE COMPACT FOR JUVENILES," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1698) recommending that S.B. No. 868, SD 2, 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 S.B. No.

868, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ENERGY RESOURCES," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1703) recommending that S.B. No. 1118, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that and S.B. No. 1118, SD 2, 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 to support of SB 1118, SD 2, HD 2, Relating to Low-income Housing.

"These are challenging times. Throughout the State we have a growing need for affordable housing, while at the same time, the impact of the global economic crisis reaches its claws into the empty pockets of low-income and working class residents. Affordable rental housing projects, needed now more than ever, have been stalled. The increase in foreclosures in Hawaii further reflects on both the housing crisis and the glaring need for homes that our basic working families can afford.

"This bill makes better use of State monies to encourage affordable housing development by our building industry. Federal low-income housing tax credits will aid the high costs that families struggling to make ends meet are unable to pay.

"Through the changes proposed in this bill, we can increase the value of low income housing tax credits as a primary source of equity for financing of new developments and preserving existing affordable rental housing. This measure will also add an effective incentive to potential affordable rental housing developers.

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

Representative Magaoay's written remarks are as follows:

"Mr. Speaker, I rise in strong support of Senate Bill 1118, S.D. 2, H.D. 2, Relating to Low-Income Housing, which reduces the period over which State low income housing tax credits are taken from 10 years to 5 years.

"Mr. Speaker this bill will provide flexibility needed to jump start affordable rental housing projects for families at or below 60 percent of the area median income. The low-income housing tax credit (LIHTC) program promotes the development and rehabilitation of low income rental housing through the use of federal and State LIHTCs.

"Under existing law, taxpayers may claim 50% of the aggregate federal low income housing tax credit equally over a 10-year period. This measure allows the taxpayer to claim 50% of the federal low income housing tax credit equally over a 5-year period. I support this provision because it is similar to the administration proposal and is already factored into the budget.

"Finally, amending the period over which State low income housing tax credits are taken from ten years to five years would increase the present value of the credits when sold to investors, allow taxpayers to claim larger tax credit amounts over a shorter period of time, and provide a more attractive financing incentive to potential developers of affordable rental housing.

"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 S.B. No. 1118, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LOW-INCOME HOUSING," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1706) recommending that S.B. No. 876, SD 2, 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 S.B. No. 876, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1723) recommending that S.B. No. 464, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 464, SD 2, 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 Senate Bill 464, SD 2, HD 2, Relating to Taxation (renewable energy technologies, and income tax credit).

"Mr. Speaker I support the general intent of this bill and its intent to establish energy efficient initiatives. This bill will help to accelerate the investment in Hawaii's clean energy future by encouraging more private investment in solar thermal and wind energy technologies.

"By making the Renewable Energy Technologies Income Tax Credit (RETITC) refundable at a reduced level, SB464, SD 2, HD 2 will enable the solar industry in Hawaii to expand its role as an engine of economic stimulus and job creation in the current recessionary environment. Hawaii would further benefit in the long term because renewable energy finance companies would immediately move in to propose agreements offering immediate and long term savings to the State with no capital investment required.

"Finally, RETITC is necessary for a recessionary environment when State resources are low and there are limited opportunities from stimulus activities. As fossil fuel and petroleum prices become more volatile, Hawaii's ability to generate its own energy from home will make the State more secure and less reliant on others."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 464, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1732) recommending that S.B. No. 1137, SD 2, 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 S.B. No. 1137, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1737) recommending that S.B. No. 1352, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1352, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I support SB 1352, SD 2, HD 2, which would allow an owner to opt out of the Land Court system and which transfers recording of time share fee interest to the regular system. It further

establishes a pilot program to implement electronic recording of fee time share interests.

"The Land Court system was originally designed to handle the recording of individually owned properties. No one denies the value and security of the Torrens system with its careful, technical and concentrated review of every document presented for inclusion in the certificate of title. But Hawaii's property law has evolved to recognize and create additional forms of ownership or right to the use of a property which may involve large multiples of owners or interest holders. The rather cumbersome review in the Land Court system was neither designed to handle, nor does handle, the volume of routine and uncontroversial transfers and transactions in an efficient and effective manner.

"This bill authorizes streamlining an important tool in our economy – the timely recording of transactions involving timeshares on Land Court system property. Bringing our real property recording system into the modern world is long overdue.

"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 S.B. No. 1352, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO BUREAU OF CONVEYANCES," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

### THIRD READING

#### S.B. No. 387, SD 1, HD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, S.B. No. 387, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET," passed Third Reading by a vote of 48 ayes to 1 no, with Representative Thielen voting no, and Representatives Morita and Takai being excused.

#### S.B. No. 917, SD 2, HD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, S.B. No. 917, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THIRD PARTY LIABILITY FOR MEDICAID," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

#### S.B. No. 1206, SD 1, HD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, S.B. No. 1206, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COUNTIES," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

#### S.B. No. 1327, SD 1, HD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, S.B. No. 1327, SD 1, 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 49 ayes, with Representatives Morita and Takai being excused.

At 9:17 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 300, SD 2, HD 2  
S.B. No. 937, HD 1  
S.B. No. 1259, SD 2, HD 2  
S.B. No. 979, SD 2, HD 1  
S.B. No. 931, SD 1, HD 1  
S.B. No. 119  
S.B. No. 862, SD 2  
S.B. No. 880  
S.B. No. 947, SD 1

S.B. No. 39  
S.B. No. 160, SD 2  
S.B. No. 162  
S.B. No. 163  
S.B. No. 1250, SD 1, HD 1  
S.B. No. 528, SD 1  
S.B. No. 585, SD 2, HD 1  
S.B. No. 843, SD 1, HD 1  
S.B. No. 896, SD 1, HD 2  
S.B. No. 91, SD 2, HD 2  
S.B. No. 523, SD 2, HD 2  
S.B. No. 161, HD 1  
S.B. No. 501, HD 1  
S.B. No. 1329, SD 2, HD 2  
S.B. No. 887, SD 1, HD 2  
S.B. No. 892, SD 1, HD 2  
S.B. No. 1107, SD 2, HD 2  
S.B. No. 423, SD 1, HD 2  
S.B. No. 427, HD 1  
S.B. No. 1263, SD 2, HD 3  
S.B. No. 1046, SD 1, HD 1  
S.B. No. 1674, SD 2, HD 2  
S.B. No. 718, SD 1, HD 1  
S.B. No. 309, HD 1  
S.B. No. 564, SD 2, HD 1  
S.B. No. 967, SD 2, HD 3  
S.B. No. 851, SD 1, HD 3  
S.B. No. 914, SD 2, HD 2  
S.B. No. 521, SD 2, HD 1  
S.B. No. 522, SD 2, HD 1  
S.B. No. 714, SD 1, HD 2  
S.B. No. 1005, SD 2, HD 2  
S.B. No. 1056, SD 2, HD 2  
S.B. No. 1183, SD 2, HD 2  
S.B. No. 301, SD 2, HD 1  
S.B. No. 109, SD 2, HD 3  
S.B. No. 868, SD 2, HD 2  
S.B. No. 1118, SD 2, HD 2  
S.B. No. 876, SD 2, HD 2  
S.B. No. 464, SD 2, HD 2  
S.B. No. 1137, SD 2, HD 3  
S.B. No. 1352, SD 2, HD 2  
S.B. No. 387, SD 1, HD 1  
S.B. No. 917, SD 2, HD 1  
S.B. No. 1206, SD 1, HD 1  
S.B. No. 1327, SD 1, HD 1

At this time the Chair stated:

"Members at this time, please remember to submit to the Clerk the list of Senate Bills on the Consent Calendar for which you will be inserting written comments, in support or in opposition, into the Journal. For all of you, this must be done before the adjournment of today's Floor session."

At 9:17 o'clock a.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 9:33 o'clock a.m.

### ORDINARY CALENDAR

At this time the Chair stated:

"Members, at this time we will be taking up the items on the Ordinary Calendar. Members of the House, let me state for the record that we will have lunch at 12:00 noon. Lunch will be for half an hour, so that we can get through by 1:00. There are a lot of events this evening, so can we push for 1:00 as our goal and objective.

"At this time Members, on page 10, the Unfinished Business, Members please note that S.B. No. 1108 has been re-referred solely to the

Committee on Hawaiian Affairs per Committee Referral Sheet Number 53. The Committees on Water, Land, & Ocean Resources and Finance waived their referral to this measure, and therefore it is appropriate for the House to consider action for passage on Third Reading."

### SUSPENSION OF RULES

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, to rules were suspended to reconsider action previously taken on S.B. No. 1108. (Representatives Cabanilla, Morita and Takai were excused.)

### RECONSIDERATION OF ACTION TAKEN

Representative B. Oshiro moved that the House reconsider its action previously taken pursuant to the recommendation contained in Standing Committee Report No. 1068, recommending referral to the Committee on Water, Land, & Ocean Resources, seconded by Representative Evans and carried. (Representatives Cabanilla, Morita and Takai were excused.)

### UNFINISHED BUSINESS

#### S.B. No. 1108

Representative B. Oshiro moved that S.B. No. 1108, 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. I would like permission to add comments into the Journal on SB 1108.

"Mr. Speaker, the `Aha Kiolo Advisory Committee was established in 2007 with the purpose of fostering understanding and practical use of knowledge, including native Hawaiian methodology and expertise, to assure responsible stewardship and awareness of the interconnectedness of the clouds, forests, valleys, land, streams, fishponds, and sea.

"The `Aha Moku System has allowed for those who are directly knowledgeable in the care and protection of our natural and cultural resources to assist policy makers in sustaining these natural resources. The `Aha Kiolo Advisory Committee has been able to communicate to lawmakers, State departments and the administration on this system, which is based on the indigenous resource management practices of traditional *moku* boundaries that acknowledge the natural contours of land and the specific resources and methodology and resources necessary for the community.

"The current members of the Committee are all native Hawaiian practitioners and have established a strong rapport with *moku* representatives and *ahupua'a* communities.

In the *mokus*, we are taking a grassroots approach and gathering data from the community on what is the best way to structure the `Aha Moku Councils. The extension of the sunset date through Senate Bill 1108 will allow time for the `Aha Kiolo Advisory Committee to bring forth the information to the Legislature and implement the process. It is essential that we allow them the time to finish this process.

"Mr. Speaker and Members of this Body, I urge you to please support this measure and allow for the `Aha Kiolo Advisory Committee to continue their work by voting 'yes' on SB 1108. Thank you."

The motion was put to vote by the Chair and carried, and S.B. No. 1108, entitled: "A BILL FOR AN ACT RELATING TO NATIVE

HAWAIIANS," passed Third Reading with Representatives Cabanilla, Morita and Takai being excused.

At 9:35 o'clock a.m., the Chair noted that the following bill passed Third Reading:

#### S.B. No. 1108

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1456) recommending that S.B. No. 1677, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1677, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. On Standing Committee Report 1456, I stand in support with reservations and have just a few comments. As we all know, I've been in support of a full moratorium. I have been around the State, consulting with many Native Hawaiians and non-Hawaiians on this issue.

"As we all know, in our process there's much discussion and consideration, and because there's some unresolved issues, I'd like to support this measure, and help it to move forward in the discussion. I still stand strong on legislation or a policy with some sort of a full moratorium. Mr. Speaker, could I also offer comments to the Journal?"

Representative Carroll's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in support of SB 1677, SD1, HD2, but have reservations. You all know that I am and still stand in support of a full moratorium. However, I am still going to support this measure because it is the only one that we have left to set a policy. And because there are so many unresolved issues, I feel that we need to amend this bill later in Conference to a full moratorium.

"I also believe that it is in the best interest of all of Hawai'i's people that the language of SB 1677, SD1, HD2, be amended from putting forward a disapproval process of public lands to establishing a full moratorium or a limited number of years whether it be a one, two, three, or five year moratorium on the sale and transfer and/or exchange on these lands. The reason that I feel we should amend this bill is mainly to protect the corpus of the trust and to give this Body some time to discuss further a policy that is appropriate and with integrity.

"SB 1677, SD1, HD2, requires the majority vote of House and Senate to disapprove the sale or exchange of State-held lands to non-State entities or persons. This process doesn't protect the corpus of the Trust, it allows for the State to sell and exchange these lands easily.

"The language of the original bill called for an approval process of two-thirds majority vote in both houses through a concurrent resolution. Granted, it is not easy to get two-thirds majority vote in both houses. But then again, it shouldn't be easy to sell or transfer public lands, either. There should always be a process in place which is transparent and has integrity. Such lands should never be easy to sell or transfer. We must have checks and balances as well as accountability.

"A disapproval process is saying that the State agrees that this sale or transfer should take place until the Legislature disapproves of it. I think we have it backwards. Public lands should not be easily sold or exchanged.

"Furthermore, in December 1986 a Final Report on the Public Land Trust was completed by the Legislative Auditor, in which the report was made to the Legislature of the State of Hawaii. In this Final Report on the Public Land Trust, Chapter 4 reported on the inventory of the public lands. In this chapter it states that the Department of Land and Natural Resources

is responsible for all public lands used by or under the management control of all agencies, except the University of Hawaii and the Hawaii Housing Authority.

"For many years there was no inventory of public lands. However, in September 1981, the DLNR, through its Division of Land Management, completed an inventory of all State-owned public lands for which the Department is accountable. The inventory lists approximately 1,271,652 acres. Also excluded from the inventory are all lands defined as "available lands" by the Hawaiian Homes Commission Act, except those encumbered by a lease to a State agency. In addition, State highways and roads are excluded. About 14,656 acres are set aside to the Department of Transportation for airport and harbor purposes and about 2,240 acres are used by the Department of Education for school and library purposes. These numbers were noted in this 1986 report. The number of acres may have changed over the years.

"Later in chapter 4, the report talks about the problems with the inventory. The inventory was done by the DLNR and they were the first to admit that the inventory contains inaccuracies. The inaccuracies are in the classification of land as ceded or non-ceded and as trust land or non-trust land and in the acreages of parcels. For many different reasons, DLNR was challenged with trying to accomplish the task of completing an inventory of the public land trust. And while they have done their best with what resources they had to work with, the inventory is still not accurate or complete.

"My point is that until a complete accurate inventory is completed, I don't feel that the State should be selling ceded lands. I reiterate that we need to protect the corpus of the Trust.

"From a monetary standpoint, a moratorium would help the State to secure its bond rating, which will be necessary getting through these difficult economic times, while also preserving the lands for the reconciliation process to come to fruition.

"Another concern that I have that leads me to being in favor of a full moratorium is the State Admission Act, section 5(f). As I read section 5(f), it states: The lands granted to the State of Hawaii by subsection (b) of this section and public lands retained by the United States under subsections (c) and (d) and later conveyed to the State under subsection (e), together with the proceeds from the sale or other disposition of any such lands and the income there from, shall be held by said State as a public trust for the support of the public schools and other public educational institutions, for the betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended, for the development of farm and home ownership on as widespread a basis as possible for the making of public improvements, and for the provision of lands for public use. Such lands, proceeds, and income shall be managed and disposed of for one or more of the foregoing purposes in such manner as the constitution and laws of said State may provide, and their use for any other object shall constitute a breach of trust for which suit may be brought by the United States. The schools and other educational institutions supported, in whole or in part out of such public trust shall forever remain under the exclusive control of said State; and no part of the proceeds or income from the lands granted under this Act shall be used for the support of any sectarian or denominational school, college, or university.

"Even the State Admission Act acknowledges the Native Hawaiians' connection to its lands by adding in section 5(f) language which states that one of the five purposes these lands can be used for is for the betterment of native Hawaiians.

"In addition, there are the Hawaii Legislative Acts: Act 354 (1993) Relating to Hawaiian Sovereignty, which provides funding to develop programs and curriculum to educate the general public about Hawaiian Sovereignty. After reviewing some of the facts surrounding the overthrow of the Hawaiian government, the Legislature acknowledged that many native Hawaiians believe that the lands taken without their consent should be returned and if not, monetary compensation made and that they should have the right to sovereignty, or the right to self-determination and self-government as do other native American people.

"Another piece of legislation: Act 359 (1993) Relating to Hawaiian Sovereignty established the Hawaiian Sovereignty Advisory Commission to advise the Legislature on a voting process to determine the will of the native Hawaiian people regarding a convention.

"Act 340 Relating to the Island of Kaho'olawe affirms that Kaho'olawe resources and waters are to be held as part of the public land trust. It also provides that the State shall transfer management and control of the island and its waters to the sovereign native Hawaiian entity upon its recognition by the United States and the State of Hawaii.

"And lastly, Act 329, Relating to the Public Land Trust which responded to controversies over the revenue due to the Office of Hawaiian Affairs from the public land trust, where this act established an interim revenue amount due to OHA, sets up a committee to make recommendations on issues related to the public land trust, and requires the Department of Land and Natural Resources to complete an inventory of the public land trust. In the finding section of this act, it states: "The legislature finds that the events of history relating to Hawaiians and Native Hawaiians, continue to contribute today to a deep sense of injustice among native Hawaiians and others. The legislature recognizes that the lasting reconciliation so desired by all people of Hawaii is possible only if it fairly acknowledges the past while moving into Hawaii's future."

"In closing, we have heard so many versions and interpretations of why or why not a moratorium should or shouldn't be imposed. The U.S. Supreme Court's ruling stated that they have no authority to decide questions of Hawaiian law or to provide redress for the past wrongs except as provided for by federal law. The judgment of the Hawaii Supreme Court is reversed, and the case has been remanded for further proceedings not inconsistent with this opinion.

"By providing a policy of a moratorium, it allows the Legislature more time to discuss further a policy that is appropriate and fair. And it also protects the corpus of the trust while these unresolved issues such as a complete inventory of the public land trust, native Hawaiians relinquishing their claims and beginning their reconciliation process are addressed.

"Mr. Speaker, I support SB 1677 with reservations, and would like to see this measure move forward as we discuss further the issue of the policy on selling, exchanging and/or transferring ceded lands. Mahalo."

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

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

"Thank you, Mr. Speaker. I just rise with some reservations. I'm very concerned about the implications of this bill. The current draft allows for sales and transfers of ceded land via a disapproval process. What this means is that one Chair can kill the disapproval Resolution, and the sale or transfer will go through without the rest of us knowing about it. The process has already been used to transfer 547 acres of ceded land to Maui Land and Pineapple, and the Boy Scouts, in return for 2.6 acres of land.

"Although this measure went through the disapproval process in 2004, I was not aware that until this year, when discussions regarding ceded lands came up as a result of the Governor's appeal to the U.S. Supreme Court. And, like the Representative from Maui, I do know that this bill has a lot more discussion to go, and I appreciate that. So I look forward to working on this bill in Conference."

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

"Thank you, Mr. Speaker. With reservations, and may I have the words, the eloquent words of the previous speaker from the Waianae Coast entered into the Journal as if they were my own? Thank you, very much."

ROUGH DRAFT

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

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

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

"Mr. Speaker, in support. Just very briefly, I wanted to clarify that under our House Rules, 11.3, the Chair does not have unilateral discretion in terms of refusing to hear a bill or resolution. Ultimately, it lies upon the majority of the Committee if they want to have a bill and/or resolution heard, they need to follow the procedures set forth in rule 11.3. That's the way we've always had it in our House Rules. The majority of the Committee still has that power, and so it is not a unilateral discretion of the Chair. Thank you."

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:

"So far, the only bill providing oversight or potential limits to the sale of State land (including ceded lands) is SB 1677. This bill requires that the State Executive (through the agency administering the proposed sale) submit a Resolution to the Legislature prior to the sale of the public land, and the sale may move forward if the Senate and House approve of it by a 2/3 vote. Existing law allows for the exchange of public lands (i.e., public land in exchange for private land) by an agency if, after submitting a Resolution to the Legislature, the Legislature does not disapprove of the sale.

"I am concerned that if this bill passes and a proposed sale or exchange of ceded lands moves forward, litigation will ensue and any legislation relating to a specific land sale or exchange will be found unconstitutional. In addition, the current disapproval process for land exchanges may not only result in litigation, but will also for the exchange of a land deal to close without the envisioned legislative oversight because of the Committee hearing process (i.e., the Chair of any single Committee could defer the action and prevent it from moving forward to the floor for a vote). Despite these problems, I support the idea that the Legislature should play a role in the sale of public land and SB 1677 will add a legislative step to the process that will, hopefully, ensure the public interest is served.

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

"Thank you, Mr. Speaker. Strong reservations."

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

"Yes, Mr. Speaker. With support, and very slight reservations. The reservation I have is that this measure includes all public land, including ceded land, and that could provide some problems in the future. I hope that the Conference Committee would look at that particular area. Thank you, very much."

Representative Belatti 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 Belatti's written remarks are as follows:

"Mr. Speaker, I rise with reservations, only because I believe a full moratorium on the sale, exchange, or transfer of ceded lands is a better policy to follow. This branch of government rightfully possesses the authority to set policy over the management of the State's 1.2 million acres

of ceded lands. As the United States Supreme Court acknowledged in its recent opinion in Hawaii, et. al v. Office of Hawaiian Affairs, (Slip Opinion, March 31, 2009), the question of how the state should manage the ceded lands trust is up to "the citizens of Hawaii . . . to resolve," because it is one "of great importance to the people of the State." Insofar as it is this branch of government's duty to legislate, make laws and set policy for the State as elected representatives of the people of this State, we have the authority to enact a moratorium as a policy that benefits all the people of the State.

"Under the terms of the Admissions Act, the State must use the land and any proceeds from the land, not just for the betterment of the conditions of native Hawaiians, but also to support public education, to provide farm and home ownership on as widespread a basis as possible, and to provide lands for public use. These "other" trust objectives benefit all of us. As trustee, the State of Hawaii owes a fiduciary duty to all of the people of Hawaii to prudently manage the trust.

When a situation like the one we face arises, where one set of beneficiaries may have unrelinquished claims to the trust property, the trustee is obligated to preserve the trust corpus until the matter is resolved. This is not possible when there exists the possibility that the trustee could sell, exchange, or transfer the trust corpus. The trustee can effectively and properly administer the trust only when it has a clear sense of what all of the beneficiaries are entitled to.

"Another reason to support a moratorium is that in these uncertain times, the prudent action that the State should take, as trustee of 1.2 million acres of ceded lands, is to preserve the corpus of lands as a long-term strategy and to continue leasing these lands for income. The sale of land during this time of economic recession would very likely result in prices lower than those that could be realized in a more robust economy. A full moratorium on the transfer of ceded lands would merely reinforce the fiduciary duty the State already knows it has. Thank you, Mr. Speaker.

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

Representative Coffman 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 Coffman's written remarks are as follows:

"Disapproval is a negative option process that requires no action for approval and the process will confuse the public."

Representative Saiki 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."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1677, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LANDS CONTROLLED BY THE STATE," passed Third Reading by a vote of 46 ayes to 2 noes, with Representatives Berg and Hanohano voting no, and with Representatives Cabanilla, Morita and Takai being excused.

At 9:42 o'clock a.m., the Chair noted that the following bill passed Third Reading:

S.B. No. 1677, SD 1, HD 2

Representatives Herkes and Karamatsu, for the Committee on Consumer Protection & Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1590) recommending that S.B. No. 205, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 205, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. First of all, I'd like to disclose a potential conflict. My family members are contractors," and the Chair ruled, "no conflict."

Representative Thielen continued in support of the measure with reservations, stating:

"Thank you. Mr. Speaker, I'm rising with some reservations on this measure. What it's trying to do is cut down on owner-builders that aren't really operating as owner-builders. But the thing is, if someone is actually building their own home, they act as their own general contractor. That person, she or he, would very unlikely carry workers' compensation insurance. The other thing is, they might find it a little difficult to get the federal tax clearance. We know you can get a state tax clearance, that's quite easy. Going to the federal building and trying to track down how to get a federal tax clearance could be a little bit more onerous and time-consuming.

"So, I would like to have the Conference Committee take a look at that. If we're really talking about true owner-builder, she or he would not necessarily have the workers' comp insurance, and do we need to make that a requirement? Thank you."

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

"Mr. Speaker, may I get a ruling on a potential conflict? At my law firm, I represent owners, builders, and contractors. 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 S.B. No. 205, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO OWNER-BUILDERS," passed Third Reading by a vote of 48 ayes, with Representatives Cabanilla, Morita and 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. 1592) recommending that S.B. No. 53, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 53, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I rise with short comments in opposition. Thank you, Mr. Speaker. This bill has to do with life settlements Model Act, the stranger-originated life insurance.

"Basically, my opposition is just wanting to give it a chance to see how it works. This particular bill was amended in the last Committee, and that kind of changes the whole model part of the Act. It takes out the transparency part of it. So with that, I just wanted to see how the existing law works before we make any changes for consumer protection. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 53, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 45 ayes to 3 noes, with Representatives Ching, Finnegan and Pine voting no, and with Representatives Cabanilla, Morita and Takai being excused.

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 1593) recommending that S.B. No. 420, SD 2, 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 S.B. No. 420, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO NATUROPATHIC MEDICINE," passed Third Reading by a vote of 48 ayes, with Representatives Cabanilla, Morita and Takai being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1594) recommending that S.B. No. 764, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 764, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I'm rising in strong support of this measure. Mr. Speaker, this is really wonderful, the way the legislative process worked, and the way the Mainland owner of this property paid attention to the concerns of the local tenants.

"It started out to be a Mainland owner who was going to deal with things from afar. They had put an absolute requirement in lease renegotiations that the tenants could not talk to each other about what each individual tenant was being asked to pay. So, this gag order was in place, and then the bill started its way through the proceeding.

"The Mainland owner listened at the hearings, their counsel was here listening, and I believe gave good advice to this Mainland owner. I have a letter from them saying, and this is to one of the tenants: 'I would like to inform you of two changes in our policies, regarding rent negotiations and comparable market data. We no longer require tenants or potential tenants in our Oahu industrial market to sign confidentiality agreements before entering negotiations for rent resets, lease renewals, or new leases.'

"So, that's a real positive thing. It was the tenants who were fighting for survival, and they couldn't even talk to each other, under the gag rule. So, the gag rule has been lifted. And, they're also saying, 'In going forward, we will release transaction comparables to commercial real estate brokers and appraisers upon request, when contractually permitted.'

"And, it's a much better situation, Mr. Speaker, because this bill is alive and moving, and I encourage everyone to keep the bill going forward. Thank you.

"Mr. Speaker, thank you. If I may have permission to insert the letter in the Journal in its entirety, please. While blanking out the name of the tenant. Thank you."

Representative Thielen submitted the following letter:

"HRPT Properties Trust  
400 Centre Street, Newton MA 02458-2076  
tel: (617) 332-3990 fax: 617-332-2261

April 9, 2009

Dear :

I am the Chief Operating Officer and Senior Vice President of HRPT Properties Trust, and I would like to share with you some recent developments regarding HRPT and the Hawaii office of its affiliate and property manager Reit Management & Research LLC (RMR).

We have made a change in leadership, and for the interim Chris Woodward will be Acting Vice President in charge of our Hawaii office. Chris has been with HRPT and its affiliates for five years working in our headquarters office outside Boston and is highly respected throughout our organization. He has been on the ground in Honolulu for the past 10

weeks and is committed to remain in place until we fill the Hawaii Vice President role on a permanent basis. Chris can be reached by calling 808-599-5800 or via email at cwoodard@reitmr.com.

Our Honolulu office is fully committed to meeting its goal of responding to any tenant inquiry within one business day, and we are in the process of increasing our staffing levels to achieve this. I would remind you that we have an emergency hotline for property management issues (808-945-1185). Resolution of our request might take longer than one business day; however, you will receive a timely return call or email to let you know that your issue is being addressed. In addition, if you have questions regarding any upcoming rent re-opening, I encourage you to call our Honolulu office to schedule a meeting.

I also would like to inform you of two changes in our policies regarding rent negotiations and comparable market data. We no longer require tenants or potential tenants in our Oahu industrial market to sign confidentiality agreements before entering negotiations for rent re-sets, lease renewals or new leases. In addition, going forward, we will release transaction comparables to commercial real estate brokers and appraisers upon request, when contractually permitted. It is our hope that these changes will help tenants make better informed decisions and result in a smoother renegotiation process for all parties.

For our James Campbell Industrial Park tenants, we will be opening an onsite office and establishing regular business hours there. We will notify you when the office opens and of its hours of operations in a subsequent letter.

We remain committed to supporting our Hawaii tenants and thank you for the opportunity to strengthen our relationship.

Best regards,

/s/

David M. Lepore

Senior Vice President and Chief Operating Officer  
HRPT Properties Trust"

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 Senate Bill 764, Senate Draft 2, House Draft 2, Relating to Real Property. 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.

"Senate Bill 764 explains that 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.

"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 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 Belatti 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 Belatti's written remarks are as follows:

"Mr. Speaker, I rise with reservations. Senate Bill 764 sets forth statutory factors for determining what is fair and reasonable rent for long-term commercial and ground leases. While I am very sympathetic to lessees, many of whom may be small businesses providing valuable services and employment to Hawaii's people, who are struggling during these difficult economic times and who are affected by the vague terms the Legislature now seeks to define, I am not certain that passing SB 764 is the appropriate solution. This bill rides a fine line between general and special legislation. This bill also poses other problems. Its provisions may invite litigation under the contracts clause of the U.S. Constitution. Some of the testifiers concluded that a constitutional challenge would fail because this bill, if passed into law, would easily survive judicial scrutiny under the rational basis test. Because of these uncertainties, please note my reservations with this bill. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 764, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY," passed Third Reading by a vote of 40 ayes to 8 noes, with Representatives Berg, Hanohano, Keith-Agaran, C. Lee, Luke, Saiki, Shimabukuro and Takumi voting no, and with Representatives Cabanilla, Morita and Takai being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1597) recommending that S.B. No. 34, SD 1, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 34, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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:

"Mr. Speaker, I rise to speak with reservations concerning SB 34, which excludes real estate brokers and salespersons from the definition of distressed property consultants. The bill also prohibits certain conduct relating to the acquisition of an ownership interest in distressed property by licensed real estate brokers and salespersons.

"The bill seeks to amend Act 137—the Mortgage Foreclosure Rescue Fraud Prevention Act—which became law less than a year ago. It was designed to protect consumers from foreclosure rescue scams and fraudulent distressed property consultants who offer so-called "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 homeowner's mortgage company. Frequently, this results in the homeowner getting little or nothing for their fee and the consultant disappearing with the money. An even more insidious form of the scheme involves the consultant taking title to the property ... and the homeowner staying on as a renter in an often futile attempt to buy it back over the next few years.

"While I appreciate the challenges Act 137 presents for real estate brokers and salespersons, I do not believe a wholesale exemption of the industry is the appropriate way to deal with the existing situation. If Act 137 is causing problems for the real estate industry, this bill in its present form is not the best way to solve them. My inclination is to vote 'no' on this bill. For now, I express my reservations in the hope that a better bill might emerge from Conference Committee ... or even next year."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 34, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE MORTGAGE RESCUE FRAUD PREVENTION ACT," passed Third Reading by a vote of 48 ayes, with Representatives Cabanilla, Morita and Takai being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1622) recommending that S.B. No. 1, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1, SD 1, 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. Can I note my reservations on this, and just give quick comments with reservations. It's just very difficult to be able to monitor this: when the *opihi* is above the waterline or below the waterline. I think that it's going to just be problematic. Thank you."

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

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

"Yes, I share the reservations of the Minority Leader. I'm voting with reservations."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO OPIHI," passed Third Reading by a vote of 48 ayes, with Representatives Cabanilla, Morita and Takai being excused.

At 9:49 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 205, SD 1, HD 2  
 S.B. No. 53, HD 1  
 S.B. No. 420, SD 2, HD 2  
 S.B. No. 764, SD 2, HD 2  
 S.B. No. 34, SD 1, HD 1  
 S.B. No. 1, SD 1, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1626) recommending that S.B. No. 878, SD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 878, SD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I rise in strong support for this cost-saving measure. Thank you. This bill saves money by allowing the PUC to provide hearing notices to only the islands affected by a public utility proposal for change in utility rates and rate making procedures.

"Present State law requires the PUC to provide three statewide notices of a public hearing regarding such items as a proposed change or modification in rate. And these notices must be published statewide, even if the public utility, which the notice pertains, and the customers who may be affected reside in another county and are not statewide.

"By amending this law to provide that notices be published only in the counties served by the utility seeking the proposed change, the PUC's publication cost could be reduced as much as 50% per fiscal year. For instance, had this proposed change be in effect in fiscal year '06-'07, the PUC would have reduced its advertising expense by \$74,000.

"Affected customers will still receive direct and adequate notice of public hearings on rate changes. The PUC will regularly post notices of public hearings on its website to keep the general public informed. But, I think this is a great cost-saving measure, and promotes efficiency in government. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 878, SD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLICATION OF HEARING NOTICES," passed Third Reading by a vote of 48 ayes, with Representatives Cabanilla, Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1633) recommending that S.B. No. 164, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 164, entitled: "A BILL FOR AN ACT RELATING TO THE FEDERAL GRANTS SEARCH, DEVELOPMENT, AND APPLICATION REVOLVING FUND," passed Third Reading by a vote of 48 ayes, with Representatives Cabanilla, Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1636) recommending that S.B. No. 166, SD 1, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 166, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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 the measure.

"Cancer drugs constitute the second biggest category of drugs in the United State behind cholesterol-lowering medicines and account for \$18 billion in sales. Oral chemotherapy drugs can be used to treat many cancers including; breast, ovarian, colorectal, prostate, lung, and leukemia.

"For patients, the advantages are many. Oral drugs offer a targeted approach, attacking the cancer cells directly, and they produce fewer nasty side effects, such as gastrointestinal problems and hair loss. They also reduce the amount of time patients must stay in the hospital; even in an outpatient setting, IV chemotherapy can last up to 6 hours. Because we are an island state, they reduce travel time and cost. They also eliminate nursing and physician cost as there is no need to insert an IV port or intravenous catheter, which can remain in place for weeks. Needless to say IV chemotherapy is not pleasant and there is always a risk of infection, especially in the immunocompromised patient.

"During hearings on this bill, the vast majority of the testimony reflected support; this included oncology physicians, nurses, and patients. There was opposition from the health insurance carriers. Their point was that oral chemotherapy drugs are covered by their prescription plan. This is partly true. Yes, they do cover a limited number of oral cancer therapy drugs, but there are many newer more effective drugs that they don't cover. For example, Avastin, is one of the many new oral chemotherapy drugs, but it is only covered for IV use and is not on the prescription drug formulary of a major insurer.

"SB166, is a good bill, it will do three important things. It requires health insurance carriers to provide coverage for all chemotherapy treatment, including orally administered drugs under the same terms and conditions and payment rate and reimbursement as that of intravenously administered drugs. Next, it should reduce the out-of-pocket financial burden that is associated with cancer. It is not uncommon for families to sell their homes to pay for treatment, and it is not unusual for treatment cost to exceed \$100,000. Finally, this bill gives cancer patients another treatment option, and reduces the time they must spend traveling and receiving IV treatment. Our Neighbor Island residents will not need to travel to Honolulu as frequently, for treatment.

"For these reasons, I strongly support the passage of SB 166 and urge the Members' support."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 166, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 48 ayes, with Representatives Cabanilla, Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1637) recommending that S.B. No. 568, SD 2, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 568, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, thank you. Mr. Speaker, rising in strong support of 1637. Mr. Speaker, I'm in support of this measure, because it establishes a taskforce for electronic prescription to develop a plan to implement electronic prescription drug programs. And, the health information technology is an essential component for improving quality of care. Quality of care would be improved by the use of registries for proactive care, and patient safety will be improved, as well as avoiding the incorrect filling of some ineligible handwritten prescriptions. Efficiency will be improved by not needing to spend time locating or filing paper charts.

"This is a good bill. It's something that, I think a number of the hospitals and the medical centers have wanted for a while. And, the American Recovery and Reinvestment Act of 2009 will provide funding to support implementation of this, maximizing this funding, and it will require more expediency. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 568, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRONIC PRESCRIPTIONS," passed Third Reading by a vote of 48 ayes, with Representatives Cabanilla, Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1639) recommending that S.B. No. 777, SD 1, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 777, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I rise in opposition to this bill. Thank you, Mr. Speaker. This is Senate Bill 777, SD 1, HD 1. The description of this bill states that it requires any recipient of State funding to provide medically accurate sexuality education, and I believe that it's misleading, Mr. Speaker. I say this because this bill would prevent programs, like the Catholic Charities of Hawaii's successful, currently federally-funded program that is a medically accurate abstinence-only program from receiving State funds in the future. SB 777 is an unnecessarily punitive measure, which targets successful local abstinence programs for Hawaii's youth.

"Mr. Speaker, I think a lot of the presenters who present the comprehensive, medically accurate sex-education programs currently, many don't believe that people, in general, can actually accomplish no sex before marriage. So, to have them teach a part of it that talks about abstinence, as you talk to kids, they don't believe it. They don't believe that it can be done, because it's taught by people who don't believe that it can be done.

"Requiring abstinence only and comprehensive sexual education to be taught at the same time, is similar to the principle underlining the controversial needle-exchange program. And, what I mean by this is, someone standing in front of kids and telling them, 'Don't use drugs. But if you use drugs, use a clean needle, and we'll give it to you.' Mr. Speaker, you have kids. Many of us have kids, and they don't quite get that, when you tell them, 'No, don't do this. However, we're going to show you how to do it, and how to do it safely.' I'm not saying that you don't teach the other side. I'm just saying that you don't force the people who say they are going to teach one particular thing to teach all aspects of what is considered comprehensive, medically accurate sex education.

"Mr. Speaker, of course we want our children to have that proper information, but at some times, what these programs are teaching are displays of sexual promiscuity. It is hard enough for parents to teach their child sexual morality when television and movies promote anything but that. And, it makes it much more difficult when adults come into our schools and make sexual promiscuity look cool.

"In actuality, this bill is an effort to stamp out abstinence-only programs. Just by reading the purpose clause, anyone can see the hostility that some have toward abstinence programs. The purpose clause implies that abstinence-only groups provide inaccurate information. What groups like Planned Parenthood don't like is how abstinence groups tell the truth about the failure rate of condoms. How the only 100% effective birth control method is abstinence. And how sex is closely linked to emotions, therefore has been one of the causes of teen depression, Mr. Speaker.

"Let me just tell you, because most parents, when I talk about this, they're pretty shocked. Most parents, they don't know what's happening in our education system. So, I'm just going to go ahead and read from a couple of the articles from last year. This is a *Honolulu Advertiser* article, and it's entitled, Kalani Sex Education Program Blasted.

'We sat there for five minutes listening to a young man tell us how he used his finger to have sex with his girlfriend', said this parent. 'A female student had to read off a cue card about how to have hand sex with a person who has HIV, and how to get his penis erect. They had a dildo stuck to the board. There it hung, flaccid.'

"And it also says in here, in another article,

'The State's Board of Education requires public schools to follow an abstinence-based education policy promoting it in health classes as the surest and most responsible way to prevent unintended pregnancies, STDs, and emotional distress. However, the schools are also expected to teach other forms of protection from the 5th grade on.'

"So, what is that protection, Mr. Speaker? At Kahuku High School and Intermediate School, and another at Kalani High School, have focused no attention on the programs, especially the use of sex toys, demonstrations about how to use male and female condoms, and the discussion of oral sex.

"Mr. Speaker, remember now, in regards to parental choice on whether or not this is acceptable to the parent, my understanding on how it exists today, from the Education Committee is that the form is given to the child, whether it be from 5th grade to the 12th grade. Then, if they don't receive the form back, then that means the parents are ok with this being taught in their health education class."

Representative Pine rose to yield her time, and the Chair "so ordered."

Representative Finnegan continued, stating:

"I'm almost done, Mr. Speaker. But, how many high school kids actually give their forms home to their parents. Sometimes you have kids who don't even send their report cards home, and you have to mail it home so that their parents see them.

"Mr. Speaker, I just think that what you have here is a situation that sets it up where parents do not have the choice on whether or not their kids have the choice of what kind of sex education class they are going to be given.

"The other thing is, if you talk to some of the teachers, the health education teachers from across Oahu, because this is where the Try Wait! Catholic Charities Program works in, you'll find testimony from these teachers that are saying, no other group, no other person is giving this kind of information about abstinence-only, and helping them to understand that there is another choice, and that they're very thankful. These educators are very thankful that there is another message aside from, 'it's ok to sleep around.'

"Mr. Speaker, I just feel really strongly about this, because there are many parents that feel that this is not the place to have this kind of say about sex education in such a broad way. Thank you."

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

"Mr. Speaker, I rise in support. Well, first of all, I want to make some comments about a few of the statements the previous speaker gave. One, she mentioned that she believed that people who were teaching sex education in schools did not believe in abstinence, and so, when they were teaching, they really weren't teaching that as an alternative. I think that was really such a general statement. I believe in my heart that people who do teach, understand abstinence is a good thing, but the reality of the world we live in today is, it's really changed.

"I'm always shocked when I go with my niece and nephew to some of these movies that we have that are still rated PG. There was one in particular that I remember where you hear the baby speaking in a voice. I can't remember what the name of the movie was, but at the beginning of the movie, this woman was having sex with her boss, and then she ended up getting pregnant, telling him she didn't want to get married to him. I don't know if it was John Travolta, but it was a big, major movie that parents thought was really great. But, at the beginning of the movie, she was having sex with a married man, and I'm thinking, where are the moral values here? What's wrong with the messages we're sending?"

"So, I think the reality is, we've shifted consciousness. When I was 12 years old, we learned about sex, abstinence, what it was all about, all the toys, all that stuff, but we talked story with each other. We didn't know if we were accurate in what we were talking about, but we were talking at 12 years old about what's going on, and what do our parents do, what we're seeing. Some people were getting magazines, going to the grocery store, and looking things up, because we were curious. We wanted to know about this. We knew it was going on around us. And when we talk today, and when I talk to gals my age, and I'm 56 years old, they're saying, 'Why didn't they teach us all that stuff? Why did we have to go around and sneak about it, and try to figure it out?' We really didn't know what was going on.

"I think what's happened is we now have to address sexually transmitted diseases. It's huge now. It's major. In my generation, we weren't talking about sexually transmitted diseases. But now the world's changed. Now there's sexually transmitted diseases, and there's a lot of television and movies. If you want to talk about getting things correct, that's where we should head. The reality is, we have a responsibility to children. Responsibility to educate them.

"And, if you want to talk about drugs, like the previous speaker, we want to teach kids to make smart choices. The reality is television ads, and stuff in magazines are all about taking drugs. You take drugs for everything now in our society. Headaches, sex, you can't sleep, you want to lose weight, whatever it is, there's drugs for absolutely everything. Depression. It just goes on and on.

"And so, I think what we're trying to teach children is that you've got to make smart choices. You have to know there are good choices, and that people out there may be leading you the wrong way. It's up to adults, it's up to parents, and some parents are so busy that they're not seeing that their kids are being exposed to some of these things.

"So, I think that what's coming about is the fact that our society is changing, and this really is helping our children make good choices. So I really encourage us to keep this discussion going. Thank you."

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

"Mr. Speaker, I rise in support. Just very briefly. I do recognize the concerns that have been brought up, but I think overall, what we need to do is look at the evidence, because we want to make evidence-based policies. I just wanted to cite four reports.

"The first one is by Douglas Kirby, a PhD who published a study in November of 2007. It clearly shows that comprehensive sex education, abstinence-only, as well as explaining the true risks, and potential benefits, and everything else about sexual behavior, about how to use contraceptives effectively to prevent pregnancy and sexually transmitted infections, can help teens make healthy and responsible life decisions.

"The second study is one by Pamela Kohler in Spring of 2008. This was a nationwide study of 15 to 19 year-olds, that found that teens who participated, again, in comprehensive sex education, abstinence-only, as well as how to use contraceptives were significantly less likely to report teen pregnancies than those who received either no sex education or attended abstinence-only until marriage programs.

"The third one is a report by Douglas Kirby, a PhD who I talked about earlier. This is a report, again from him. November, 2007, a review of 115 sex education programs found that, again, the comprehensive sex education approach can significantly delay the initiation of sex, reduce the frequency of sex, reduce the number of sexual partners, and increase condom or contraceptive use amongst teens.

"And the last one is by the Centers for Disease Control and Prevention, which noted, 'research has clearly shown that the most effective programs are comprehensive ones that include a focus on delaying sexual behavior, and provide information on how sexually active young people can protect themselves.'

"So, while I recognize that there may be a lot of fear out there by parents, based off this anecdotal evidence that they've heard, we in this Body need to make decisions based on policy. I think the overwhelming evidence shows that comprehensive sex education is something that is valuable and is something that is necessary. Because, despite how we may want to shelter children, and how we believe that, at the end of the day, parents can protect them against everything, unfortunately, that's not true. And there are forces out there that need to be reckoned with, and these studies show how we can do it in the best, and most reasonable way. Thank you."

Representative Finnegan rose to respond, stating:

"Thank you, Mr. Speaker. I do have comments in rebuttal. Mr. Speaker, I'm not sure what the former speaker was talking about, the anecdotal evidence having to do with a parent's responsibility, or a parent's experience. What I was commenting on, in regards to the articles was actually a parent sitting in on one of these comprehensive sex education classes. So, it's not anecdotal about their fears. He was just explaining what he observed in this particular article.

"The problem that I have is, you have different audiences when you go as a presenter to these kids. You have audiences that are active in sex, and then you have audience members who aren't active, and some on the verge of being active. And, I understand. When I was younger, my parents just told me a certain way. They didn't teach me about sex. I'm very open with my kids in teaching them about sex.

"So, I'm not necessarily against teaching some of these things that are in comprehensive sex education. What I am against is the mandate of saying that if you want State funds, you have to teach both by the same group, or the same person, in the same presentation. That is what I'm against.

"And, I want to make it clear for these people to understand what they're doing is taking people who say that, 'I might not be able to teach about having a condom stuck in front of me, or some dildo stuck in front of me, in front of a class. I may not be able to teach that with my program, but I can teach about the ineffective rates of a condom. I can teach about sexually transmitted diseases without having these sex toys in front of me. And, I can teach about how you deal with the pressures of having sex in high school. I can teach about all of these kinds of things, just don't make me teach about dildos and sex toys.'

"Mr. Speaker, like I said about the audience, you have different kinds of kids in the audience when you're teaching. And for some people like me who are responsible parents, who want to go in and not shelter my kids, but teach them in the way that I feel is appropriate for their maturity and their age. I don't shelter my kids.

"This makes me very upset, Mr. Speaker, because the comments are made to sound like we're oblivious to what's happening in the world. This is undermining the responsible parent that has a child in the school that is trying to teach their kid, according to their maturity, and according to their level of age-appropriateness. Thank you, Mr. Speaker."

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

"I just wanted to also add, still in opposition, that it's about balance and it's about parental choice. I ask also that the additional comments made by the Minority Leader be entered as my own," and the Chair "so ordered." (By reference only.)

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

"Yes, in opposition. I just wanted to make clear that my opposition is the fact that I believe that this discriminates against religious families who want to have that option to be taught just abstinence-only education, so that the school can be consistent with what they're being taught at home.

"The Majority Leader talked about the importance of data in this discussion. A great author once said, 'There's truth, lies, and then there's data.' And data can usually be used in any way that you want it to be used. So, I'd like to give some data as well.

"According to a report to Congress, that was required by Congress to be given to them, it states, 'Abstinence is the only 100% effective method to prevent pregnancy and STDs. The greatest risk factors for teen pregnancy and transmission of STDs are the age at first onset, with a multiple number of partners. Abstinence education serves to help teens delay the onset of sexual activity, and reduce the number of sexual partners they have through education, monitoring, counseling, and peer report.' And that is a report to Congress by the U.S. Department of Health and Human Services. It's right here if anybody wants to read that data.

"Also, in another report, by Jones and Toffler, and it states the declines in adolescent pregnancy, birth, and abortion rates in the 1990s. This study,

which was done by several different doctors, reported that abstinence and decreased sexual activity amongst sexually active adolescents are primarily responsible for the decline during the 1990s in adolescent pregnancy, birth, and abortion rates.

"In another institute, the Medical Institute for Health says, 'Abstinence-only education teaches core ethical values that are held more or less universally. Most appropriate for schools to target those core ethical values of responsibility, self-discipline, self-control, integrity, honesty, fairness, and kindness. And these can be objectives for a curricular development.'

"Another report, back to the Congressional report, expressed some concerns over the inconsistency in the promotion of a health curricula. Comprehensive-based sex education has an innate inconsistency with the health curricula, the study states. Students are taught to say 'no' to tobacco, alcohol, drugs, gun-use, drunk driving, but when it comes to the potential dangers that come to sexual activity, the message is just practice safe sex if you're going to do it.

"So, it's a very confusing and a dangerous message to our *keiki*. And that's all the data that I have for today."

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

"Mr. Speaker, I have a very brief comment with reservations. As a matter of fact, there are three kinds of lies that Mark Twain said: 'There are lies, damn lies, and statistics.' The fact of the matter is both sides of this argument need to be heard. Where the rub is, Mr. Speaker, if you're good at teaching evolution, you would not be very good at teaching creationism. I think that's where the Minority Leader is coming from. Let's not force the same to have to do both of those, because they would do a very poor job. Let them both do what they do very well, and let's get on with it. So, let's get the birds and the bees, and beyond where we are for 20 minutes here. Thank you."

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

"Mr. Speaker, in favor. The Minority Leader mentioned Kalani High School, so I think I should relate the experience at that high school, if I may. Thank you.

"At Kalani High School, they do have a medically accurate, age-appropriate program that was funded, and there was a newspaper report about very graphic programs, as mentioned by the Minority Leader. I phoned up the principal and asked whether he had received any calls on this graphic program, and he said 'no.' He had not gotten any. He had not received any complaints about their program, which they had for many years. I expected to receive some negative calls against the program, and I did not receive any.

"So, I urge you to vote for this bill. I think the people who are for it are not against abstinence. They are only opposed to a federally funded abstinence-only program that hasn't worked, because pregnancy numbers have gone up, sexually transmitted diseases have increased. So, programs that teach abstinence-only are not effective. So, we must go back to our medically accurate, age-appropriate programs that also teach abstinence. Thank you."

Representative Aquino 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 Aquino's written remarks are as follows:

"The bill's intention is to ensure that abstinence-only education, as well as comprehensive sex education is taught at the same time. This would undermine the message of abstinence-only programs, who in fact, teach alternatives to abstinence, but at different times of the curriculum. The bill's language prior to the House draft would force organizations, like Catholic Charities Hawaii, with successful federally funded abstinence-

only programs, to choose between the loss of those federal dollars or the loss of State funding for other non-sex education programs.

"I support the House amendments made in SB 777, SD1, HD 1, which would prevent the loss of funding and employment of people hired by Catholic Charities Hawaii to conduct abstinence-only programs. However, the notion that abstinence-only curriculums are ineffective or inaccurate can be disputed."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 777, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMPREHENSIVE SEXUALITY HEALTH EDUCATION," passed Third Reading by a vote of 45 ayes to 3 noes, with Representatives Ching, Finnegan and Pine voting no, and with Representatives Cabanilla, Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1642) recommending that S.B. No. 378, SD 1, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 378, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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. 1642, SB378, SD1, HD1.

"Mr. Speaker, during the hearing before your House Committee on Water, Land, and Ocean Resources on March 9, 2009, the Department of Land and Natural Resources presented testimony which stated, "The Department is currently conducting statewide public meetings on many marine species in need of further conservation, including the species in this bill. At these meetings, fishers are being asked for their input on a variety of management options including: minimum sizes, bag limits, restriction on take based on commercial or non-commercial purposes, open and closed seasons." It is my understanding that since January 2009 the Department of Land and Natural Resources has been holding public informational meetings throughout the State. These meetings were held to gather public input to regulate the Parrotfish and Goatfish through size limit, bag limit, seasonal closure, etc.

"The first meeting was held on Maui on January 14, 2009, at the Maui Waena Elementary School with the last being held on March 5, 2009, at the Lanai Public Library. Granted, the Legislature has the authority to enact any legislation which it deems necessary to manage Hawaii's marine resources. However, to do so at this time would only detract from the Department's ability to formulate proper and effective Administrative Rules. We must permit the Department of Land and Natural Resources to continue with their rule making process without any interference from an outside agency. It is the Department of Land and Natural Resources that has the expertise to determine how best to manage Hawaii's marine resources. If I may remind my colleagues that the 2002 Legislature passed HB2552, which was enacted into law as Act 151, Session Laws of Hawaii 2002. This measure amended Act 85, Session Laws of Hawaii 1999, by repealing the sunset date and transferring many of the marine life regulations from statutes to the Department of Land and Natural Resources' Administrative Rules. The 2002 Legislature agreed with the Department of Land and Natural Resources that the creation of regulations for such matters as minimum sizes, seasonal closure, bag limits, etc. were better handled through the Administrative Rules process.

"Mr. Speaker, when SB378, SD1 crossed over to this Chamber it set minimum sizes and bag limits on the Parrotfish and Goatfish, the very thing that the Department of Land and Natural Resources is responsible for. As I stated before, the Legislature gave that authority to the Department of Land and Natural Resources. Additionally, fishermen have always stated that Administrative Rules should not be formulated based on public opinion alone, they should be based on available data with public

input. To support the Department of Land and Natural Resources continued effort to formulate Administrative Rules to regulate the taking of the Parrotfish and Goatfish and to take note of fishermen concerns SB 378, SD1 is amended in its entirety. Section 2 of SB378, SD1, HD1 reflects this Chamber's intent as follows:

1. 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.

"Mr. Speaker, the intent of this section is to encourage the Department to continue with holding public informational meetings. Gathering such public input will enhance the Department's ability to better formulate statewide, as well as regional (island by island), rules.

2. Use and present all available data to support the basis for any rule proposed based on public input, and if no data is available, use all available means to gather the necessary data.

"Mr. Speaker, this section 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." Nowhere is this measure does it require scientific justification, as stated by the Department of Land and Natural Resources in their testimony before the House Committee on Finance on April 6, 2009.

"Presently the Department has some available data for the taking of the Parrotfish and Goatfish. The only data have come from licensed commercial fishermen. Commercial fishermen, licensed in the State of Hawaii, are required to submit monthly reports to the department for all of their catches, including the Parrotfish and Goatfish. What the Department lacks is the data from recreational fishermen catches. Presently recreational fishermen are not required to possess a saltwater fishing permit nor submit monthly catch reports. In the State of Hawaii there are, presently, 4,000 licensed commercial fishermen and, at a minimum, an estimated 100,000 recreational fishermen. It can only be assumed that with such a large number the recreational fishermen can catch more of a specific fish than the commercial fishermen.

"Case in point: if 100 recreational fishermen on the Island of Maui caught two Parrotfish each month in 2008, this will result in a total catch of 2,400 Parrotfish for the whole year. This is nearly as many as the 2,851 Parrotfish reportedly caught by commercial fishermen in the waters of Maui in 2008. Without catch reports from recreational fishermen it is difficult for the Department to properly assess the Parrotfish stock, or even the Goatfish stock. This only indicates that the Department of Land and Natural Resources must make a better effort to obtain the necessary catch reports from both recreational and commercial fishermen.

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, and the introduction of invasive species have on the ecosystem that affects the habitat and forage of Uhu, Weke/Moana Kali, and Ulua/Papio.

"Mr. Speaker, it is my understanding that presently, the Department of Land and Natural Resources does not have a monitoring or evaluation program to determine the effects runoff, sedimentation, lack or profusion of fresh water intrusion into the marine ecosystem, invasive species, and the introduction of alien species have on Hawaii's marine ecosystem, mainly the marine fish life. Without such a program it will be quite difficult for the Department to determine whether overfishing or the effects of runoff, sedimentation, lack or profusion of fresh water intrusion into the marine ecosystem, invasive species, or the introduction of alien species may be causing a decline in the population of a certain species of fish.

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.

"Mr. Speaker, whenever the Department establishes any new Administrative Rule, a monitoring and evaluation program need also be developed in order to determine what outcomes are to be achieved and whether these outcomes have been achieved. All too often the Department has established Administrative Rules without any indication as to what outcome is to be achieved or even if the outcome has been achieved, resulting in Administrative Rules being on the books for years with no recourse. Such a monitoring and evaluation program will go a long way when the Department revisits the rules in future years and needs to determine if the rules can be lessened or made more restrictive.

"The federal government, NOAA in particular, has such a monitoring and evaluation program. In 2007, NOAA set a maximum take limit of 170,000 pounds for the seven bottom fishes; Opakapaka, Onaga, Lehi, Ehu, Gindai, Kalekale, and Hapuupuu, within the main Hawaiian Islands for the 2007 – 2008 fishing season. Subsequently, NOAA conferred with fishermen to fully understand how the fishery works. Scientist learned how the fishery has evolved historically with the introduction of new technologies that have helped fishermen; such as GPS, color recorders, power reels, etc. All this information was factored in by scientists to more accurately analyze the commercial marine landing data. This helped scientists to build a better population model, which gave a much more accurate assessment of the bottom fish population. With this evaluation and monitoring program NOAA increased the taking of the seven bottom fishes by 70,000 pounds for the 2008 – 2009 fishing season.

"Mr. Speaker, I do want to commend the Department of Land and Natural Resources, Division of Aquatics Resources, for taking the time to conduct community informational meetings to gather public input on possible new regulations for Uhu, Weke and Ulua/Papio. However, gathering public input alone is not enough. The Department must take a more active, as well as proactive, role in conserving Hawaii's marine resources. The Department must actively educate the public on Hawaii's fishing regulations, including seasonal closures and the effects that land-generated pollution, siltation and run-off have on the marine ecosystem. They should initiate working with other departmental agencies to assess the possible impacts on the marine resources and to offer mitigating measures when any type of development—land or ocean based, could adversely affect Hawaii's endemic marine species and unique marine ecosystem.

"As with the National Oceanic and Atmospheric Administration (NOAA), the Department must constantly confer with Hawaii's commercial fishermen to learn of advances in fishing technology and of Hawaii's unique style of fishing for various species of fish. Hawaii's commercial fishermen are already regulated by law and via other means, including market demand, weather conditions, competition, and user conflicts. These fishermen possess the knowledge of fishing habitats and impact upon the habitats and are regarded as the caretakers of the resources. Using the resources responsibly today is the only way to allow for continued use tomorrow and ensure their survival. To impose regulations on any commercial fisherman based on opinions gathered from recreational fishermen is just not proper. The DLNR should seriously consider conferring with NOAA and examine their model to help provide for a more accurate assessment of fish populations and to properly craft enforceable regulations, only as necessary.

"Mr. Speaker, there is nothing wrong with fishermen wanting the freedom to fish responsibly. The acts of catching fish and eating fish are important to our island lifestyle. My family, constituents and I enjoy eating fresh locally caught fish and support continued responsible fishing practices—and I'm sure my colleagues share this sentiment—therefore, I urge my colleagues to join me in supporting Stand. Com. Report No. 1642, SB 378 SD1, HD1. Let us give the Department of Land and Natural Resources, Division of Aquatic Resources, our full support in their efforts to responsibly and reasonably evaluate, assess and monitor the resources and work on establishing fair and equitable fishing rules to conserve Hawaii's precious marine resources for future use."

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 support of SB 378, SD 1, HD 1, Relating to Fishing, with reservations.

"*Uhu, weke/moana kali, and ulua/papio* species unquestionably show a decline in population with fewer fish in our reefs. These fish play a critical role within Hawaii's unique reef ecosystem. We must make a move to balance the downward slope of our fish and build on what we have now. The bag limits proposed in earlier versions of this bill and similar bills this Session would have effectively maintained these important nearshore resources in an easily enforceable fashion, but I will grant that allowing the Department of Land and Natural Resources ("DLNR") to pursue its information gathering may result in effective management as well.

"I must agree that the wisdom handed down from people who know our nearshore waters can provide valuable insights into effective management. Fishing in Hawaii is a tradition that existed hand-in-hand with sustainability. Hawaiian customs taught the island communities to maintain a balance of their resources to ensure generations to come would live in a sustainable environment.

"There is certainly value in having DLNR consider sedimentation, pollution, lack or profusion of fresh water intrusion into the marine ecosystem and the introduction of invasive species have on the habitat and forage of *uhu, weke/moana kali, and ulua/papio*. Public input should always be welcomed to illuminate the best available data produced by sound science to shape management decisions. When the public acknowledges participation in shaping an effective regulation, the community – including the nearshore fishers – will take responsibility for these conservation efforts.

"But as I said with regard to the similar bill HB 1712, HD 2, 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 good management 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. Again, 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. I would be concerned about adding requirements that 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, but with confidence that in Conference an effective bill will be produced.

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

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, but I am concerned that the Department of Land and Natural Resources will not be able to meet the mandate, and our fishery resources may suffer as a result.

"While it is clear that the Department must make a better effort to hear and work with our local fishermen, this bill may tie DLNR's hands to such an extent that it will be difficult or impossible for the agency to ever make decisions or impose restrictions to protect our fish stock from crashing dramatically.

"Our local fishermen need support, and our fishery resources need protection. This bill may not help either, despite its intent. For these reasons, I am voting for this bill with serious reservations."

Representative Coffman 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 Coffman's written remarks are as follows:

"DLNR wants to establish "bag limits" based upon existing data. I do not believe that we should delay their approach by the approach taken in this legislation."

Representative C. Lee rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Choy 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 opposition to the measure, stating:

"Mr. Speaker, in opposition, just quickly. It sounds like throughout the testimony that DLNR is doing a pretty good job, and so, I am in opposition. 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:

"In opposition to SB 378, SD1, HD1, Relating to Fishing Regulations/DLNR.

"This measure instructs DLNR to continue gathering information and monitoring certain fish populations (*uhu, weke/moana kali, and ulua/papio* or parrotfish, goatfish and jacks) before any rules are made.

"It mandates DLNR to develop a rigorous monitoring and evaluation program that will study various intrusions on the habitats of these populations as well as the outcomes to be achieved by implementing regulations.

"It has constraints that are too restrictive and that would be difficult if not impossible to meet, especially under an unfunded mandate.

"It would take years of research to accomplish these tasks.

"And it effectively places a lengthy moratorium on the regulation of these fish populations.

"And finally the measure would benefit a particular group of people who do not want to see restrictions or limits placed on their fishing activities regardless of how necessary these regulations may be for the protection of our ocean resources."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 378, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FISHING," passed Third Reading by a vote of 37 ayes to 11 noes, with Representatives Belatti, Berg, Finnegan, Hanohano, Herkes, C. Lee, Luke, Marumoto, Pine, Saiki and Thielen voting no, and with Representatives Cabanilla, Morita and Takai being excused.

At 10:20 o'clock 1.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 878, SD 1  
S.B. No. 164  
S.B. No. 166, SD 1, HD 1  
S.B. No. 568, SD 2, HD 1  
S.B. No. 777, SD 1, HD 1  
S.B. No. 378, SD 1, HD 1

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1643) recommending that S.B. No. 1167, SD 2, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1167, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise with reservations on Stand. Com. No. 1643. I have three concerns about the bill. This is the bill that I consider downgrading or weakening of the Hawaii Tourism Authority, at a time when we need tourism to be strong, and to be an over-comer in this trying economic time.

"I think it lowers the stature, particularly in the eyes of those visitors from Asia, if you have an Executive Director of the Hawaii Tourism, which this bill makes it, versus the President of the Tourism Authority. I think that lowers it a bit.

"Secondly, I think the fact that they have to go through the State procurement process. Tourism, like the private sector, has to be quick, agile, adjust to situations. There's no more of a volatile industry than the tourism industry. One incident, as we know from 9/11, we know from earthquakes, we know from Bali and its bombing. You've got to be really quick. Our procurement process is more adjudicated for fairness and balance and keeping corruption out, but we also have to be agile. And my fear is that this bill doesn't give us the agility.

"And lastly, Mr. Speaker, my concern is, even though he's a former Senator, I wish him the best to make lemonade out of what otherwise is a bit of a souring of the tourism agency. Thank you."

Representative Ching 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 S.B. No. 1167, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TOURISM

AUTHORITY," passed Third Reading by a vote of 46 ayes to 1 no, with Representative Bertram voting no, and with Representatives Cabanilla, Morita, Souki and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1646) recommending that S.B. No. 537, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 537, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, in strong support for Stand. Com. No. 1646. Mr. Speaker, this is just the opposite. This is about the future. This is about the stimulating, if you will, of our economy. Because of what this Committee will do, is to focus on aerospace. This is the new frontier, the one that we haven't really put ourselves fully to the fore with. It will be a systematic way of capturing our potential in space tourism. You know the rocket planes that we're talking about bringing to the International Airport. If we can get licensed with the transportation authority, those rocket planes will go up two miles, shoot a rocket, and then within a matter of five miles, cut their engines and then coast down weightless. That is the second generation of tourism for this State, Mr. Speaker.

"The other is, the rocket plane goes up two miles, shoots its rockets, a normal takeoff and landing, but when it gets up two miles, it shoots its rockets, and it will be in Hokkaido in 45 minutes. Again, the future prospect of tourism.

"The other is what's going on at Pisces at UH Hilo for the Mauna Kea simulation of a moon landing, a permanent station, as well as making oxygen and other minerals out of the rocks on Mauna Kea.

"Lastly, the bill is about stimulating other small businesses that are ancillary to these. Otherwise, Mr. Speaker, it's future-looking. It's space. It's the new frontier. It's a bill that I hope has many, many returns in the future. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 537, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AEROSPACE," passed Third Reading by a vote of 47 ayes, with Representatives Cabanilla, Morita, Souki and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1648) recommending that S.B. No. 178, SD 1, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 178, SD 1, HD 1, 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 all due respect to the Chair of Education, I'm rising with reservations on this measure. Mr. Speaker, it will set up a food waste recycling program in a school using new money from the general fund for a new program. And, I'm just wondering, Mr. Speaker, if this idea is so good, why it couldn't be done by the Department of Education under a public-private partnership, using existing DOE money, rather than tapping out of the general fund in this tough time? Thank you."

Representative Finnegan rose in support of the measure with reservations and asked that the remarks of Representative Thielen 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 S.B. No. 178, SD 1, HD 1, entitled: "A

BILL FOR AN ACT RELATING TO FOOD WASTE RECYCLING," passed Third Reading by a vote of 47 ayes, with Representatives Cabanilla, Morita, Souki and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1650) recommending that S.B. No. 1164, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1164, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

Representative Nishimoto's written remarks are as follows:

"Mr. Speaker, I speak in support of this measure.

"I wanted to take this opportunity to acknowledge and thank Representative K. Mark Takai and Lisa Vargas for their commitment and tireless efforts to improve the quality of education for military children transitioning to and from the State of Hawaii.

"Since the 2008 Legislative Session, Representative Takai and Ms. Vargas worked with numerous organizations and individuals to analyze how Hawaii supports children who frequently move into and out of our education system.

The Council of State Governments was charged by the US DOD with creating model legislation to remove educational barriers faced by children of military families due to frequent moves and deployment of military parents.

"Representative Takai has worked hard over the past 10 years to build a comprehensive partnership between the military and our school system to understand and recognize the unique challenges facing military children and their families. He understood that passage of this bill provides Hawaii and our schools the recognition that we deserve and tells people throughout the military circles that Hawaii's public schools are extremely supportive of our military children and their families.

"As you are aware, Representative Takai is currently Major Takai serving our country and state in the Middle East. Major Takai is serving as the Officer-in-Charge of the Camp Command for Camp Patriot, Kuwait. Despite his current duties, Major Takai continued to orchestrate and mobilize the effort to pass this bill. I want to thank Representative Takai/Major Takai for his tireless efforts in support of our nation and our State.

"With the passage of SB1164, Hawaii will join 11 other states that are part of this compact. These states include Arizona, Colorado, Connecticut, Delaware, Florida, Kansas, Kentucky, Michigan, Missouri, North Carolina and Oklahoma. Thank you."

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

"Thank you, Mr. Speaker. In support. For those who may not be familiar with this, Interstate Compact on Educational Opportunity for Military Children, it merely helps when military dependents enter our public schools, this will help the transition much better before they get here, while they're here, and also when they leave to their next school, wherever their parents are assigned.

"Just based upon the work that has been done by the Joint Venture Education Forum. Mr. Speaker, I'd also like to mention the work that Representative Mark Takai did on this effort over the past three years to ensure that the interest of our school system, and the interest of the military dependents are well served. Thank you very much."

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

"Thank you, Mr. Speaker. In strong support. Thank you, Mr. Speaker. This is a very important bill that the military community needs, as the former speaker, the Chair of Education just mentioned. These military kids, a lot of them in my district do have that instability and need help with the transition, coming in and out of Hawaii. But, I would also like to say that there are a couple of ways that I think that maybe the bill could be improved.

"One is that we have such a strong military presence here, that I don't believe that we should put a sunset date on this. As well as the second thing that I think can be improved is more active participation and say from the military community. I believe they have one representative, and then you have a lot of the Board of Education and the Department of Education making up, or having control over this particular Commission. And those are my two suggestions for improvements. Thank you."

Representative M. Oshiro rose in support of the measure and asked that the remarks of Representative Takumi 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 the remarks of Representative Takumi 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 S.B. No. 1164, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN," passed Third Reading by a vote of 47 ayes, with Representatives Cabanilla, Morita, Souki and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1652) recommending that S.B. No. 470, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 470, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Yes, in opposition, Mr. Speaker. What this bill does is, it makes revisions to various liquor licenses and tax laws. Included in these revisions is a provision that allows liquor licenses who have an agreement to repay delinquent taxes on payment plan, and who are applying for a liquor license. Basically overriding AG Op. 95-1.

"DOTAX in Committee, warned that this provision defeats the purpose of the tax clearance mandate, which is to ensure that all liquor sellers are current with their taxes to enjoy the benefit and the privilege to sell liquor. The provision no longer ensures a guaranteed flow of tax revenue, as the licensee can extend their tax obligations over time and still obtain a temporary license if they enter a payment plan. So, why even make this rule to begin with if people are going to get away with it.

"It seems like we're making special interest legislation, just for people who sell liquor. Now, are we going to then come back next Session and do this for people who sell burgers? Are we going to do this for those small businesses that are really hurting in this economy, and have back taxes and they sell clothes? So, I think it really sends a very bad message to the people of Hawaii, that we're making this special interest legislation just for those people who sell a liquor license.

"And so DOTAX, of course in Committee was definitely against this bill, and that is why I am too."

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

"Mr. Speaker, I rise in support. Not too long ago, I was in a meeting with the Retailers' Association, and they were talking about the struggle that restaurants are having right now, with the slowing of the economy and tourism and people tightening up their belts and not going out to dinner as much. So, I think we're in a really tough time right now, and I think that

this legislation is a really good way of saying to the greater community and the restaurateurs that we understand that times are tough. Maybe you did get behind, but let's work with you on an installment plan.

"If these people don't meet their payments on this installment plan, they're going to get shut down. So, I think we're not going to have tax flow, we're not going to have money coming in if we don't keep these businesses going. And so I think this is a really good measure during a real tough time. Thank you."

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

"Thank you, Mr. Speaker. In strong support. This is a small business protection bill."

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

"Thank you very much, Mr. Speaker. In support, and may I have the brief, but eloquent words of the previous speaker entered into the record as if they were my own? And, if I had my druthers Mr. Speaker, yes, we would have bills for this kind of thing for burger joints, for small businesses, for car people, whatever. But you know what? We've got to basically work with the tools that are given to us.

"So, this is a bill in which we can extend relief, and it's a small business bill. And, I think it's important to listen to them, instead of the Department of Taxation. Thank you very much."

Representative Pine rose to respond, stating:

"Just in rebuttal. You know, I actually agree with all the previous speakers. I think it's very compassionate to think about these businesses who are suffering. But, I don't think we should have selected compassion. We need to have uniformity in our tax laws, and we're going to have a bill that's going to talk about that. And so, let's talk about making this bill uniform.

"We can't say, 'Oh gosh, we've got to just deal with what was given to us in these final bills that are left.' I mean, we really are sending a message here to the people. If you sell liquor, hey, the Legislature is going to help you out when you're suffering. And, I just think that's a very bad social message to be sending from a very prestigious body as this."

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

"Mr. Speaker, I rise in support. In this economy, Mr. Speaker, it's all about jobs, and I think it's not been said any better than by the Representative from Maui, who I request his words become mine in the Journal. Giving every small business a chance to survive, to keep their employees. That's what the next three years are going to be about. Thank you."

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

"Thank you, Mr. Speaker. In opposition, and just ask that the words of the Representative from Ewa Beach be entered in the Journal as my own. I'm all for small businesses, but again, the message, when we are number one in the nation for some fatalities, and there's some definite controversy on liquor in Hawaii to have chosen this particular way to help this particular sector. It's a bad message."

Representative Finnegan 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 S.B. No. 470, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LIQUOR," passed Third Reading by a vote of 40 ayes to 7 noes, with Representatives Bertram, Ching, Choy, Finnegan, C. Lee, Pine and Wooley voting no, and with Representatives Cabanilla, Morita, Souki and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1656) recommending that S.B. No. 1218, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1218, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Shimabukuro 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 S.B. No. 1218, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE LOAN ORIGINATORS," passed Third Reading by a vote of 47 ayes, with Representatives Cabanilla, Morita, Souki and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1657) recommending that S.B. No. 43, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 43, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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.

"It is no secret that we have a shortage of doctors in the State of Hawaii. We actually don't even know how bad the situation is because we do not have a system to monitor our healthcare workforce. The Department of Commerce and Consumer Affairs collects mailing addresses and information on physician competence, however they currently do not collect demographic information, work location information, services provided or future practice plans. As a result, nobody knows how many physicians are actually practicing medicine in Hawaii, or what services are available in which communities. Although 8,000 physicians are licensed in Hawaii, it is assumed that less than half are actually practicing, but it is hard to know the who, what and where of the shortages because there is no data collected.

"The best and cheapest way to obtain this data would be by expanding the questions asked of the practicing physicians themselves at relicensure. Every physician who provides care to patients in Hawaii must be licensed, therefore asking the questions at relicensure allows us to obtain new information every two years in a cost effective way.

"Mr. Speaker this measure would not increase costs to the taxpayers of Hawaii, but the funding for collecting the data would come from increasing the physicians licensing fees by \$30. This increase would only increase the relicensure fee to \$150 which would still keep Hawaii's physicians' relicensure fees well under the national average of \$250. This small increase allows us to obtain the necessary information to address the physician shortfall in the State of Hawaii at a small cost. I note that a number of physicians supported the bill in Committee.

"For all these reasons I urge the members support."

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

"Thank you, Mr. Speaker. In regards to Standing Committee Report 1657, with reservations. It's very honorable what we're trying to do for this Physician Workforce Assessment and Planning Program. I just had some concerns because it's very similar to the situation with the nurses, where the doctors are saying, 'You're taxing or increasing a fee for us so that we can provide this,' and for them, they had some concerns as well."

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

ROUGH DRAFT

"Thank you. Again, I rise in opposition, Mr. Speaker. Just a few sentences and I will submit the rest in written comments. It's just that this particular bill does establish a fee and it will ask the physicians to foot the bill for this fee. And, the bill did not receive support from the Physicians of Hawaii. They don't want it. And so, I feel, and a number of doctors that I've spoken to, is that it's creating a more expensive licensing fee, and the timing of this bill is bad. So, I please encourage everyone to consider its harmful effects."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition to S.B. 43 – Relating to Physician Workforce Assessment. I intended to vote 'no' on this bill, but due to a mix-up on the Floor, a vote of no will not be reflected in the record. I believe this measure is unfair to our doctors. This bill proposes to raise physician licensing fees when physicians are already having financial burdens due to high medical malpractice insurance and low reimbursements. It is unfair to raise fees on the doctors to fund this study. The Hawaii Medical Association states the following: "The issue is continued rising costs with prohibitions against passing those costs on to patients and customers. Physicians are taking their own actions to solve this dilemma in their own way. This includes

- Leaving to greener pastures where they can better provide for themselves and their families, and where the cost of living is far less;
- Closing their practices as a means of preserving financial security, and either retiring or finding a job that avoids the pitfalls that exist in being a private practice physician."

"Thank You."

Representative Marumoto rose in support of the measure with reservations and asked that the remarks of Representative Ching 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 S.B. No. 43, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PHYSICIAN WORKFORCE ASSESSMENT," passed Third Reading by a vote of 47 ayes, with Representatives Cabanilla, Morita, Souki and Takai being excused.

At 10:36 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1167, SD 2, HD 1  
 S.B. No. 537, SD 2, HD 2  
 S.B. No. 178, SD 1, HD 1  
 S.B. No. 1164, SD 2, HD 2  
 S.B. No. 470, HD 1  
 S.B. No. 1218, SD 2, HD 2  
 S.B. No. 43, SD 2, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1660) recommending that S.B. No. 1140, SD 2, HD 2, as amended in HD 3, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1140, SD 2, HD 3, 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 S.B. No. 1140, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CARE," passed Third Reading by a vote of 48 ayes, with Representatives Cabanilla, Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1661) recommending that S.B. No. 1205, SD 2, 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 S.B. No. 1205, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO TEMPORARY HEALTH INSURANCE FOR UNEMPLOYED PERSONS," passed Third Reading by a vote of 48 ayes, with Representatives Cabanilla, Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1663) recommending that S.B. No. 512, SD 2, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 512, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Choy rose and asked that the Clerk record an aye vote with reservations for him, 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 McKelvey rose to speak in support of the measure with reservations, stating:

"Thank you very much, Mr. Speaker. Just with reservations. I just have a slight \$7 million reservation on this bill."

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

Representative Choy 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 Choy's written remarks are as follows:

"I am rising with reservations. This bill will inflict \$8 million in tax expenditures in the State financial plan for each fiscal year, 2010 and 2011. The industry will not utilize this expenditure in these years; therefore will have a negative impact at a time when every dollar will count."

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 S.B. No. 512, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 48 ayes, with Representatives Cabanilla, Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1667) recommending that S.B. No. 1224, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1224, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

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

At 10:37 o'clock a.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 10:40 o'clock a.m., with Vice Speaker Magaoy presiding.

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

"Thank you. Mr. Speaker, I'm rising to speak against the bill, relating to giving rent reduction to airport concessionaires. Thank you. Mr. Speaker, a lot of people in today's economy are suffering. I'm not against rent concessions, but I am against them when they only single out one group of tenants of the State.

"The bill starts off with saying 'The legislature finds that the State of Hawaii, along with the rest of the nation, is facing an economic recession that is sudden, extraordinary, and severe and one that may result in greater hardship and economic suffering than has ever been faced by the State.'

"In that instance, Mr. Speaker, we need to be extremely fair to the numerous small businesses that are tenants of this State, and instead we are only favoring one group. I can't cast a vote in favor of an unfair bill. Thank you."

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

"In strong support. We should give the same support to any business where the federal government prevents people from going to that business, like they do with the airports."

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

Representative Choy 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 Choy's written remarks are as follows:

"I am rising with reservation. Airport concessionaires must be prudent enough to survive within the constraints of the environment they work in. During testimony it was discovered that there are other potential concessionaires that are waiting to move into the concessions at the airport. I believe the natural selection process of business entrepreneurship should prevail in this case."

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

"Mr. Speaker, I do want to say that I'm in support of this bill, but I do also want to say just a short rebuttal in regards to the federal government not allowing people to go to that business on airport grounds, and that is that these businesses knew about that when they did their negotiating for their leases. So, I just wanted to add that. Thank you."

Representative Awana rose in support of the measure and asked that the remarks of Representative Herkes be entered into the Journal as her own, and asked that her written remarks be inserted in the Journal, and the Chair "so ordered." (By reference only.)

Representative Awana's written remarks are as follows:

"Thank you Mr. Speaker, I stand in strong support. This measure assists those businesses who have been adversely impacted by the decline due to the international economic downturn. Air travel has been impaired to a point where those businesses providing services and goods to travelers have been faced with large financial burdens. We must support this measure as it will allow these vendors and their employees to continue to operate. They will continue to pay leases, but at a rate which is beneficial to both our Department of Transportation and our airport concessionaires. Thank you, Mr. Speaker."

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

"Mr. Speaker, I rise in support. Mr. Speaker, after 50 years of being a retailer in Waikiki, no small business, no business in Hawaii is really in business for themselves, they're in business with their landlord. Any way we can give a break, whether it's State, federal, etc., is good for business

because outside of government, basically it's an oligopoly. The land is controlled by a handful of individuals, and the rents are usually non-negotiable. We are at least giving them an option to do something at the airport. But to turn them over to the oligopoly is unthinkable. So, if we're going to treat them across the board, we've got to do more than just what we're proposing here. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1224, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AIRPORT CONCESSIONS," passed Third Reading by a vote of 47 ayes to 1 no, with Representative Thielen voting no, and Representatives Cabanilla, Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1668) recommending that S.B. No. 642, SD 2, 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 S.B. No. 642, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEES," passed Third Reading by a vote of 48 ayes, with Representatives Cabanilla, Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1669) recommending that S.B. No. 1568, SD 2, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1568, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I am in support and would like to submit written comments; particularly the section about domestic violence. Thank you."

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

"Mr. Speaker, speaking in strong support of SB1568 SD2 HD1, Relating to Unemployment Insurance.

"SB1568 is the Senate's unemployment insurance omnibus bill, and Mr. Speaker, there are a lot of people out there right now who really need this lifeline to keep from going under.

"The amendments which I am speaking in support of strengthen the language of SB 1568 for victims of domestic and sexual violence. The HD1 incorporates the language of HB332, a measure introduced by the Women's Caucus, which provides an expanded safety net for victims of stalking and sexual assault, in addition to domestic violence.

"In this House Draft, the conditions for qualifying and documenting victims of domestic violence, sexual assault, or stalking are clarified. And last, there is provision to insure that these victims are not required to accept offers of employment that pose the same dangers as those causing the victim to leave work in the first place.

"In short, Mr. Speaker, this is a very important bill for many of our people who could really use the help right now. Our job as public servants is being fulfilled by passing it now. Mahalo."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1568, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT INSURANCE," passed Third Reading by a vote of 48 ayes, with Representatives Cabanilla, Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1670) recommending that S.B. No. 210, SD 2, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 210, SD 2, 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 Pine rose to speak in support of the measure with reservations, stating:

"I rise with support, but with some reservations. A few comments. Basically, what this does is it changes the criteria from moving prisoners from the Mainland to Hawaii, and I just believe that there's been a lot of bills that really micromanages the Department of Public Safety, which is something that if we think something needs to be done, we'll pass legislation to do so. But the Department really is being stretched thin with other things that we've mandated them to do. This would really hinder some of their operations. And with that, I'll put the rest of my speech in written comments."

Representative Pine's written remarks are as follows:

"Mr. Speaker, I rise with reservations on SB 210 SD2 HD1, Relating to Corrections.

"This bill specifies criteria that must be considered in deciding whether to transfer inmates between correctional facilities located in Hawaii and correctional facilities located outside of Hawaii.

"This measure is unnecessary as the Public Safety Department has established open and public standards used to assist in identifying and determining the transfer of inmates using a "sequential phasing" process.

"If enacted, this measure would hinder legitimate government operations and would place staff and the public at risk as it is already difficult to manage the inmate population while addressing inmates who need protective custody, issues relating to inmate gangs and other security threat groups. Appropriate levels of security and facility overcrowding will also need to be addressed.

"This measure would also add to the already over burdensome administrative requirements and responsibilities of institutional case managers and correctional supervisors and managers.

To permit the individual desire of the inmate to be a significant factor in determining where an inmate is held, will make effective population management unachievable. The Paroling Authority is confident that instead of saving the state money, this bill might actually increase costs because some facilities may not have sufficient resources while other facilities which have more resources may be underutilized.

"Mr. Speaker, thank you for allowing me to rise with reservations on SB 210 SD2 HD1, Relating to Corrections."

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 with reservations, stating:

"With reservations, please. And I believe, on Stand. Com. No. 1670, that the Paroling Authority said that it was difficult to do for them. So, that's all."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 210, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONS," passed Third Reading by a vote of 48 ayes, with Representatives Cabanilla, Morita and Takai being excused.

At 10:47 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1140, SD 2, HD 3  
S.B. No. 1205, SD 2, HD 3  
S.B. No. 512, SD 2, HD 1  
S.B. No. 1224, SD 1, HD 2  
S.B. No. 642, SD 2, HD 2  
S.B. No. 1568, SD 2, HD 1  
S.B. No. 210, SD 2, HD 1

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1672) recommending that S.B. No. 539, SD 1, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 539, SD 1, 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 the report of the Committee was adopted and S.B. No. 539, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONS," passed Third Reading by a vote of 48 ayes, with Representatives Cabanilla, Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1673) recommending that S.B. No. 540, SD 2, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 540, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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:

"In opposition to SB540, SD2, HD1.

"PSD already operates a work furlough program at OCCC.

"OCCC currently houses 142 offenders who have completed the appropriate level of in-facility substance abuse treatment.

"The measure risks public safety, and cannot be accomplished without substantial funding for additional full-time staff to both provide security in communities and administer the program

"And finally, additional resources are needed to include certified substance abuse counselors, correctional staff and administrative and clerical support personnel."

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 S.B. No. 540, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Third Reading by a vote of 45 ayes to 3 noes, with Representatives Ching, Finnegan and Pine voting no, and with Representatives Cabanilla, Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1676) recommending that S.B. No. 190, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 190, SD 1, 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 for Stand. Comm. Report No. 1676. Thank you, Mr. Speaker. It's not too often that we're able to place a face and a family to a bill. In this case, we are. If I can, I'd like to explain to you the genesis of the bill and how we crafted this. Terry Kaide, an 86 year-old who retired after 30 years of public service with the 3rd Circuit Court in Hilo as their Clerk. Her husband, Sidney is 89 years-old and he's a retired general contractor, having built many homes in Hilo.

"The Kaides have been married for 63 years. This is the problem, Mr. Speaker: they both reside in foster care homes, but in separate foster care homes. They're just asking that they could live together. Now, the problem stems from a current law that only allows one private pay and two Medicaid patients per home.

"Now, the rationale is actually a good rationale. It allows two Medicaid clients an opportunity to reside in a home setting and receive standardized health care. I'm not against the rationale, but the problem lies with the married couple. They're not being able to reside together. Notwithstanding their marriage.

"The problem is that we have to change the rule, and that's where the Department of Human Services, the Attorney General's office, as well as the Kaide family came. We collaborated, we crafted a measure, which will address this problem in a demonstration project. It's a two year demonstration project, Mr. Speaker.

"And the bill will also open up, not only for married couples, but reciprocal beneficiaries, siblings, a parent and a child, this will now allow two private-pay clients in a foster home. That's the big reason for the bill. Now, if I can point to two important reasons why we need to pass this bill, Mr. Speaker. First, time is of the essence. According to Terry Kaide, these are her words: 'I want to live with my husband before the Lord takes us home. We don't have too much time left. Please don't rob me of the one joy in my life. Our lives are short, and I pray that you pass this bill as soon as possible.'

"Terry Kaide is 86, and her husband is 89. They may not have much time. There is an urgency. We have to pass this bill. We have to pass it now.

"The second reason, Mr. Speaker. This represents an established principle that marriage is a fundamental right. Even Terry Kaide, being a retired Clerk of the Circuit Court knows how important marriage is. She states: 'Why can't the law recognize and honor our marriage, as husband and wife. In my silence, I am suffering from hurt, guilt, confusion, and the injustice to my marriage.' For 30 years, she worked in the Judicial Branch, and in 2009 she came and is working in the Legislative Branch, helping move this by Senate Bill 190.

"My last comment. I promised Terry Kaide I would say this. She wanted to thank the Legislature, and these are her words:

'I sincerely thank my God, for I know he has answered our prayers, and I will be together with my husband very soon. It's been a long and painstaking journey. However, being near to my husband is what I most desire. I feel so blessed that my husband is still alive, and that I am still alive also. I look forward to the day that I can move into his community care foster home and never have to be separated from my husband, until we go home to be with our Lord. I am overjoyed that I will be able to enjoy whatever days we have left together. I am ever so grateful to all our legislators for understanding our plight, and working hard to help pass Senate Bill 190, in order that married couples like myself can live together in their golden years.'

"Mr. Speaker, today the House of Representatives will decide if we can support a demonstration project to allow two private-pay clients to reside in community care foster homes, and thus allow marriage to become whole again. Mr. Speaker and members, let's support this measure and participate in something special. Let's pass Senate Bill 190, SD 1, HD 2. Thank you."

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

"Mr. Speaker, written comments for the Journal, please, including the words of the compassionate Chair of the Human Services Committee. And secondly, that from Charlotte Myoko Kaide, who felt that it was not only individual legislation, but she felt a passion, if you will, almost of suffering that they were doing this so others who are 86 or younger can have the same opportunity as they are having with this bill, if it proceeds.

"And the second is a letter from the Governor. I'd like to submit into the Journal that says she is ready to sign it when we are ready to pass it.

"Mr. Speaker, only one regret. Last week, this month, was her 86th birthday, and I know the Chair of Human Services had said that if we could, we could get it passed by her birthday as a birthday gift. But, as long as it goes through, she's going to be happy, but we didn't make that one. Thank you."

Representative Ward submitted the following:

"April 13, 2009

To: Rep. John Mizuno  
From: Charlotte Miyoko Kaide

After reading the front page cover story of the Hawaii Tribune Herald on March 11, tears welled up in my eyes as the Lord spoke to me. I began to understand that behind all the heartbreaks, sorrow and frustration of Mom not being able to live together with her husband for the past two years had a deeper meaning to this heart-wrenching story of a "forced separation."

The lord impressed upon my heart that it was all in God's plan that DHS did not grant us a waiver but denied our three insistent requests for Mom to move into Dad's community care foster family home and occupy the vacant bed two years ago. He directed me to share with my parents and sisters that He had chosen my mother and father to be the privileged couple to suffer along with their family that others may not have to experience this same painful dilemma.

Therefore Senate Bill 190 was drafted by Senator Suzanne Chun Oakland to offer a beacon of hope not only for my parent's however, for everyone in the State of Hawaii. We thank God and we are honored to be able to bless our community by ushering this bill through the Senate and the House standing up for what we believe. This has been a priceless experience to work with our legislators to bring about changes in our laws that will benefit everyone.

Rep. Mizuno, your guidance and support through this all has been outstanding and we want to express our gratitude for having the faith to believe with us that together we can make a difference and touch many lives through our united efforts.

Senate Bill 190 would have never been birthed if a waiver would have been granted to Mom to live with Dad in his community care foster home early on. We have faith to believe that soon Senate Bill 190 will be signed into law by our Governor Linda Lingle and that Mom will be able to live with her husband happily ever after.

We highly commend our awesome lawmakers who joined us in our plight to change the present law to bring justice to a fundamental right of a husband and wife wanting to live out their lives together and fulfill their marriage vows for marriage as a sacred union.

What a blessing to see this love story have a happy ending and that everyone in our Hawaii Nei can benefit from this compassionate compelling historical epic."

"February 18,2009

Ms. Charlotte Kaide  
Ms. Gale Sakaguchi

Aloha Ms. Kaide and Ms. Sakaguchi,

Mahalo for writing me regarding your mother's request to join your father in an adult community care foster home. I understand that your father is too frail to move into another facility at this time. I regret that the current law does not enable me to give you the result you seek.

As you may know, the State Department of Human Services licenses and regulates adult foster homes so low-income Medicaid clients can receive long-term care in family-like residential settings, as opposed to institutional hospitals and nursing homes.

Because there is a significant shortage of adult foster homes for Medicaid recipients, the law stipulates that no more than one private pay client can live in these two- or three-bed facilities.

Under Senate Bill 190, however, a couple who are private pay clients could live together in an adult foster home under certain conditions. My Administration opposed the original version of this bill, but is now working with the State Legislature on modifications that would apply to your situation.

If the House and Senate approve the amended bill in a timely manner, my policy advisors and I will give it careful consideration and I could sign it into law as early as April.

I hope this information is helpful. I also wish you and your family all the best as you strive to find a long-term care solution for your parents.

Sincerely,  
/s/  
LINDA LINGLE"

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 S.B. 190 – Relating to Community Care Foster Family Home. I believe this measure will result in a more comfortable and stable living environment for those that need care and meet the requirements specified in S.B. 190. The Hawaii Coalition of Caregivers states in their testimony that, "HCCG believes that allowing married couples to live together in the same home will result in better health and well-being, physically and emotionally, for residents. Indeed, preserving one's personal relationship, especially a close relationship one has with a spouse, is central to one's sense of independence, self-worth, and dignity. This sense of independence results in better quality of life for our residents." Thank You."

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

"Mr. Speaker, I rise in strong support and short comments. Mr. Speaker, throughout this Session, we've heard a lot of bills and legislation being commented on, on behalf of various individuals and entities, but this is really a feel-good bill. I'd like to refer to this, if I may, with your kind permission as the Terry and Sidney Kaide Legislation.

"This is about love, marriage, and companionship. This is about a journey, not only a journey, but a never-ending journey. There are no buffer zones. There are no moratoriums. This is a complete testimony of husband and wife, until the maker calls. Further written testimony will be provided for Journal entry. Thank you."

Representative Tsuji's written remarks are as follows:

"Mr. Speaker, I am in strong support of SB190 SD1 HD2, Relating to Community Care Foster Family Homes. I am a Hilo resident and friend of Mr. and Mrs. Sidney Kaide who are the inspiration for this measure. I sympathize and understand their plight as a married couple unable to live in the same community care foster family home because of the current law. The merits of this bill are many, especially with the recent House amendments. I urge this Body to support the measure to fulfill Mr. and

Mrs. Kaide's wish to spend their golden years together under the same roof."

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

"Thank you, Mr. Speaker. Just strong support and very short comments. Thank you. Although we may think that this had come about with this particular couple, I have been told that in my own district there have been several situations where couples aren't able to live together in their end of life.

"So, I just wanted to thank the Chair of Human Services for taking action on this particular bill. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 190, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO COMMUNITY CARE FOSTER FAMILY HOME," passed Third Reading by a vote of 48 ayes, with Representatives Cabanilla, Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1677) recommending that S.B. No. 415, SD 2, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 415, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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.

"Home care is a rapidly growing sector of the health care continuum. It is a cost-effective service for many individuals who are recuperating from a hospital stay and also for many who, because of a functional or cognitive disability, are unable to take care of themselves. As more elderly and disabled individuals require such care, the need becomes more urgent for the monitoring of the agencies and individuals providing such care.

"Elderly and disabled people increasingly prefer to remain at home rather than being institutionalized. Home care reinforces and supplements care provided in the home by family members and friends, maintaining the recipient's dignity and independence. Unfortunately, home care is often confused with other types of health care. Home health agencies are currently licensed by the Department of Health. Home health is directed by a physician and focuses on services provided by licensed professionals, such as registered nurses, physical and occupational therapists, and speech therapists.

"Home care may be provided by professionals as well as ancillary personnel and homemakers. Currently, many families using the services of home care agencies no doubt think that the industry is regulated, but it is not. Without licensure, the safety of those who receive home care is at risk, especially since home care is provided to frail and elderly consumers in many cases. The measure would also benefit the family caregiver who use home care services such as respite and homemaker services. Licensure of the agencies would give them peace of mind.

"The State has an obligation to protect consumers from improper care, exploitation, and abuse. At a minimum, the competence of home care agency employees should be established, and criminal background checks should be performed.

"The mandatory licensure of home care agencies is designed to assure the public that the services provided by such agencies comply with appropriate standards. Without mandatory licensure, these assurances cannot be given."

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

"Thank you, Mr. Speaker. I just rise with reservations. I want to remain consistent on this particular bill. And, just a reminder that the Auditor did a report that said that we didn't need it for this particular group. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 415, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HOME CARE AGENCIES," passed Third Reading by a vote of 48 ayes, with Representatives Cabanilla, Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1679) recommending that S.B. No. 912, SD 2, 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 S.B. No. 912, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PERMANENCY HEARINGS," passed Third Reading by a vote of 48 ayes, with Representatives Cabanilla, Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1681) recommending that S.B. No. 1344, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1344, HD 2, pass Third Reading, seconded by Representative Evans.

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

"On Stand. Com. No. 1681, with reservations. Mr. Speaker, this is the bill that has to do with QUEST and the QUEST Expanded Access recipients. I do understand the issue, having to do with this, and maybe there is some disruption and care of some of the people who are members of these programs.

"I would also like to somehow speak in favor though of the mind-frame in which the DHS was moving forward with the pro-business type of legislation, and maybe talk about some of the positive things of QUEST Expanded and how they do this positive enrollment. This requires insurance entities contracting to provide Medicaid services to enter into written contracts with at least 50% of hospitals and providers in their coverage area.

"Positive enrollment is a 60-day period, during which clients can select a health plan, and it occurs only when a new round of contracts has been awarded. The 10-day period stated in the Preamble of this bill is actually incorrect. During the last positive enrollment, 83% of clients selected a health plan. This has been documented as the best response of Medicaid clients nationwide selecting their health plans.

"Following the initial 60-day plan selection period, clients are allowed 90-days to change health plans. During this transition period, the new health plan will pay for care, delivered by the patient's usual provider, even if that provider is not participating in the new health plan.

"DHS awarded these Medicaid contracts in a fair, open, and transparent process, upheld by the independent State Procurement Office and two federal judges. The selection of the providers was based on who had the highest qualifications of the five competing bidders.

"Mr. Speaker, as this bill moves forward, and like I had said earlier, that I understand that there are some issues with the bill. I would just want to remind people that this does save money for the State, and the more money that we can save for the State, I believe that we can help more people. 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 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 stand in strong support for SB No. 1344 and quote from testimony submitted by AlohaCare:

AlohaCare initiated this measure in order to put an end the Hawaii Department of Human Services (DHS) policy of positive enrollment, which has disrupted the delivery of medical and related services to the enrollees of the State of Hawaii QUEST Program. As you know, Hawaii's QUEST and QUEST Expanded Programs represent some of Hawaii's most medically fragile and vulnerable residents, including low-income families, the aged, the disabled and many other groups.

Positive enrollment is a policy whereby QUEST recipients are involuntarily dis-enrolled from their health care plan and consequently from their Primary Care Provider (PCP). QUEST recipients then must select a plan and PCP, either their former plan and PCP or new ones. Those who do not select a health plan are automatically assigned one by DHS, which can be a different plan. At our request, the HD1 version of the bill applies to the QUEST and QUEST Expanded Program due to our concern that positive enrollment will be applied to that program as well. DHS supports positive enrollment because their goal is to encourage competition among health plans. DHS opposes S81344, HD1.

In 2006, DHS implemented positive enrollment and caused unnecessary confusion among QUEST beneficiaries and providers, delays in necessary medical care, disruption to case management, loss of contact between enrollees and their primary care providers and unnecessary expense for all involved. S81344 will ensure that this disruptive practice will not occur again.

On March 23, the House Human Services/Health Committees made the following substantive amendments, improving the bill by eliminating rather than just modifying positive enrollment:

- Removed language that details limitations on the positive enrollment policy;
- Adds a provision that prohibits DHS from requiring a QUEST or QUEST Expanded Care recipient to re-enroll in a health plan unless their chosen plan no longer actively provides services and coverage;
- Requires insurance entities contracting with the State to provide Medicaid coverage to enter into written contracts with a minimum of 50 percent of hospitals and providers in their coverage area; and
- Changes the effective date to January 1, 2050, to encourage further discussion.

AlohaCare supports the elimination of positive enrollment, despite the fact that we benefited from the 2006 auto assignment of approximately 20,000 enrollees who did not select a health plan as a result of positive enrollment. These enrollees were assigned to AlohaCare because we were the lowest bidder. As the result of our low bid, AlohaCare will save the State of Hawaii approximately \$23 million over the current four year contracted period.

It is important to note that the elimination of positive enrollment does not prevent QUEST enrollees from changing health plans under the QUEST Program. Annually, as does any Hawaii health plan, including employer purchased and State employee plans, QUEST beneficiaries have the right to stay in their current plan or choose a new one. In addition, as a matter of policy, AlohaCare assists enrollees to change to alternative plans anytime of year, above and beyond the annual open enrollment period required by QUEST. We do this because we believe that offering QUEST enrollees a choice of health plans that best meet their individual needs is optimal. Thus, positive enrollment is not needed.

Again, our goal is to prevent positive enrollment from jeopardizing the care of some of Hawaii's most vulnerable and medically fragile population. AlohaCare is a non-profit health insurance company, founded in 1994 by Hawaii's community health centers, to serve the needy. Serving the healthcare needs of the people of Hawaii with aloha is our mission. AlohaCare has more than 60,000 health plan members, of which 1,200 Medicare members."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1344, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CARE," passed Third Reading by a vote of 48 ayes, with Representatives Cabanilla, Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1682) recommending that S.B. No. 1679, SD 2, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1679, SD 2, 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 strong support of Senate Bill 1679, House Draft 1. This bill sets aside funding for important State safety net programs. In these difficult economic times, it is the State's duty to protect the most vulnerable among us: the poor, disabled, young, elderly, mentally ill, uninsured, and victims of abuse and domestic violence--those least able to lobby the Legislature to protect their interests. Reduction or elimination of services to these populations could be catastrophic; people who are struggling to feed themselves, keep a roof over their heads, and stay healthy and productive may find themselves a step away from homelessness. The Emergency and Budget Reserve Fund was intended to be used precisely in these circumstances and specifically for these populations. Ensuring funding for safety net programs also keeps our government social services and non-profit agency employees working at a time when their expertise is critical. Saving the safety net is not just for the vulnerable and those who serve them—it is a reflection of the State's commitment to all of its people. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1679, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMERGENCY AND BUDGET RESERVE FUND," passed Third Reading by a vote of 48 ayes, with Representatives Cabanilla, Morita and Takai being excused.

At 11:02 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 539, SD 1, HD 1  
 S.B. No. 540, SD 2, HD 1  
 S.B. No. 190, SD 1, HD 2  
 S.B. No. 415, SD 2, HD 1  
 S.B. No. 912, SD 2, HD 2  
 S.B. No. 1344, HD 2  
 S.B. No. 1679, SD 2, HD 1

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1685) recommending that S.B. No. 1345, SD 1, 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 S.B. No. 1345, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Third Reading by a vote of 47 ayes to 2 noes, with Representatives Berg and Thielen voting no, and with Representatives Morita and Takai being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1686) recommending that S.B. No. 468, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 468, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Rhoads rose and asked that the Clerk record an aye vote with reservations for him, 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:

"The goals of this bill may be well-intentioned. However, I have serious concerns about this draft, which provides an exception for Waikiki and potentially allows for construction along the shoreline with no public review process."

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

"Thank you, Mr. Speaker. I have reservations on Standing Committee Report 1686, and Mr. Speaker, my reservations relate to a firsthand experience on Kailua Beach. What this bill would do, is it would allow a beachfront owner to apply for an emergency permit in the special management area to put up either revetment wall, or some sort of temporary structure at that person's home. The difficulty is there is a particular house on Kailua Beach that has been built out so far, it's on sand area that used to be underwater within the last 20 years. Those of us that have walked the beach during that period of time were aware of that, as the water lapped up that far. This would mean that, that owner, as the sea level rises, that that owner is going to be able to go into the permitting authority, request an emergency permit to put up a shoreline structure, or temporary structure, which could begin to erode away Kailua Beach.

"There won't be any public hearing under this bill. Now, the bill can go forward without this provision, and I would encourage those people that are on Conference Committee to look at that, and don't exempt that kind of a structure, or that kind of a situation from a public hearing.

"The public hearing is where you get your shoreline experts to be able to come in and say to the permitting authority, 'Wait a minute, don't allow that owner to do X, Y, and Z, because here's going to be the result.' You're going to start an erosion pattern that would turn Kailua Beach into what has happened to Lanikai.

"And so, I think that this bill should really have a hard look, and have that provision taken out. It doesn't need that provision in it to go forward. Thank you."

Representative C. Lee rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. Mr. Speaker, I rise in opposition to this bill. Mr. Speaker, this bill will allow for better management practices to protect our beachfront homes in many areas, and properties today. And safeguard and preserve our beaches and natural shoreline habitats for many future generations to come.

"However, I'm voting against this bill, as drafted, because for those beachfront properties covered by the Waikiki Beach Reclamation Agreement of 1928, which includes all the beachfront properties from Ala Wai Canal to the police station on Kalakaua Avenue, and beyond.

"This bill unnecessarily eliminates all State and county building setbacks. While current State law allows for the counties' expanded discretion to sit greater than the 20-foot State minimum setback. These provisions, as written, prohibit the county from exercising any authority in

Waikiki. And it will go further and prohibit the minimum 20-foot State setback as well.

"So, while throughout the rest of the State, this bill provides for greater setbacks, as deemed appropriate. In Waikiki, at our premier beach, we have eliminated setbacks altogether.

"Mr. Speaker, it is our obligation to protect and preserve Waikiki Beach as an important destination for both locals and tourists alike; an icon of our State, that we must not allow to disappear beneath concrete foundations, or beneath the waves. Thank you."

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

Representative Awana 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."

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

Representative Belatti 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 Belatti's written remarks are as follows:

"Mr. Speaker, I rise with reservations on Senate Bill 468, House Draft 2. In its original form, this bill promised to establish safe and sensible shoreline setback requirements that would take into account global climate change, rising sea levels, erosion, and natural disasters. It reflected the smart long-term planning that we should be undertaking as an island state. As this bill moved through the House, however, its positive intent was distorted.

"Specifically, the twenty-foot shoreline setback requirement in Waikiki was eliminated. The reason given for this elimination is that a shoreline setback in Waikiki would violate the rights of property owners who were parties to the Waikiki Beach Reclamation Agreement of 1928. This Agreement, however, (a copy of which I attach here) merely stated that various property owners would agree to have the Territorial government of the state replenish the sand in the beach areas fronting their properties. In exchange, the property owners would own the sandy areas fronting their properties, subject to an easement for the public. Nothing in this Agreement appears to prevent this body from imposing a twenty-foot setback.

"Moreover, Waikiki, perhaps more than any other area of the State, must take into account how its built areas affect and are affected by shoreline changes. Development in this area must proceed with care. Waikiki is the engine that powers our economy. Waikiki Beach lures millions of visitors to the State each year. If thoughtless and short-sighted shoreline development is allowed to proceed, it may, in the long run, destroy the very resource that it was intended to exploit. Thank you, Mr. Speaker."

## M A I N A G R E E M E N T

BETWEEN THE TERRITORY OF HAWAII AND PROPERTY OWNERS AT WAIKIKI FOR THE RECLAMATION OF WAIKIKI BEACH, DATED OCTOBER 19, 1928, RECORDED IN THE BUREAU OF CONVEYANCES AT HONOLULU IN BOOK 1047, PAGES 176-202.

Agreement made as of this 19th day of October, 1928, by and between The Territory of Hawaii, party of the first part, and the undersigned (other than said Territory), parties of the second part,

Witnesseth: Whereas, Act 273 of the Session Laws of Hawaii, 1927, authorized the building of a beach at Waikiki, Oahu, by or under the authority of the Board of Harbor Commissioners; and

Whereas, said Act provided that said Board shall not begin any construction work unless and until legal arrangements are made whereby the general public shall be assured of the right to use such portion of any beach built as lies within seventy-five (75) feet shoreward of the mean highwater mark; and

Whereas, said project if completed, will be a public benefit and of benefit to the property owners concerned.

Now, therefore, in consideration of the execution of this agreement by the parties of the second part, and of their covenants and agreements herein set forth, the party of the first part hereby covenants and agrees with the parties of the second part as follows:

1. That it will commence the work of building said proposed beach outward from the present line of mean highwater mark, as shown by the shoreward line of the area described in Exhibit A hereto attached and made a part hereof, not later than the first day of January, 1929, and will diligently prosecute said work so long as moneys therefor are available or until it shall have been demonstrated that the project is not practicable.

2. That it will not erect or place upon the beach any building, wharf, structure, machine or other obstruction of any kind, except such as may be necessary to be used in connection with such work of construction, and upon completion of the work, or on demonstration of the impracticability of the project it will remove all such obstructions, except such retaining walls, groins or other structures as may be necessary for the preservation of that part of the beach as may be deemed practicable within the meaning of this agreement, and, in case the project shall have been a success, will, subject to the above exception, forever thereafter keep the beach free and clear of obstructions and open for the use of the public as a bathing beach and for passing over and along the same on foot.

3. That such beach, while in the process of construction, and after completion of construction, or in case the impracticability of the project shall be shown, shall become and be deemed to be natural accretion attached to the abutting property, and title thereto shall immediately vest in the owner or owners of the property abutting thereon, in proportion to their sea-frontage, subject only to the easement in favor of the public as above stated.

4. That in case such project shall prove to be impracticable it will, at the request of any party of the second part, recommend to the Legislature that the necessary legislation be enacted for the removal of any retaining wall, groin or other structure which shall have been placed in front of his property in the attempt to build such beach.

In consideration of the foregoing covenants and agreements of the party of the first part, the parties of the second part hereby covenant and agree with the party of the first part as follows:

(A) That they do, and each of them does, hereby approve and consent to the building of a beach at Waikiki aforesaid, as authorized by said Act 273 of the Session Laws of 1927, and in furtherance of such approval and consent do hereby promise and agree to abstain from raising and/or making any protest, objection and/or complaint, in court or otherwise, against the same, and do further subject all their property within the area described in said Exhibit A, and all their right, title and interest in the beach which shall be built pursuant to the authority of said Act within such area, to the uses and purposes provided in said Act and in this agreement.

(B) That they will not erect or place on any part of such beach so to be constructed as aforesaid within seventy-five (75) feet of mean highwater mark of such beach as it may exist from time to time, any building, fence, wall or other structure or obstruction of any kind unless such mean highwater mark shall be more than seventy-five (75) feet from the present line of mean highwater mark as shown by the shoreward boundary of the area described in said Exhibit A, and in any case will not erect or place on such beach any such structure or obstruction other than portable fences and/or hedges for the purpose of marking the boundaries of their respective abutting properties, and such structures as shall be removable in nature, providing, however, that such fences, hedges and/or structures shall at no time be situated within the area reserved for the public as herein provided.

abutting properties, and such structures as shall be removable in nature, providing, however, that such fences, hedges and/or structures shall at no time be situated within the area reserved for the public as herein provided.

(C) That in the event that said project shall prove successful they will at no time prevent such beach in front of their respective premises from being kept open for the use of the public as a bathing beach and for passing over and along the same on foot, provided that such open and unobstructed beach adjoining their respective properties need not exceed seventy-five (75) feet in width from mean highwater mark.

And it is hereby mutually understood and agreed by the parties hereto as follows:

I. That this agreement shall not be construed to be a recognition by the party of the first part of any right, title or interest on the part of any party of the second part in any property abutting on the present highwater mark at Waikiki, nor shall it give the party of the first part any right whatsoever to molest or hinder any party of the second part, in the possession of any such property now held by him, that is to say, all right, title, interest and possession, of each party of the second part, shall be and remain the same as though this agreement had not been executed; and provided that if deemed advisable and in furtherance of the purpose of the said project, and in the mutual interests of the public and of any party of the second part, and if mutually agreed by said Board of Harbor Commissioners and such party of the second part, the shore line along the property of such party as it is now or may hereafter be, may be moved seaward.

II. That said project shall be deemed to be impracticable within the meaning of this agreement if after the expenditure of a substantial amount of money thereon, and after reasonable efforts shall have been made to build such beach, a strip of an average width of less than ten (10) feet shall have been constructed within any one of the following described four natural sectors; then as to such sector the project shall be deemed to be impracticable:

1. Ala Wai to outer seaward boundary of Pierpoint Peninsula.
2. Thence to outer seaward boundary of that property known as the Young Property.
3. Thence to the westerly end of the Kalakaua Avenue Retaining Wall.
4. Thence to the Elks' Club.

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III. That the failure on the part of the party of the first part to comply with and perform any covenant herein contained on its part to be observed and performed shall render this agreement void and of no further force or effect as to any party of the second part at his election; provided, however, that title to so much beach as shall have been constructed shall remain vested in the owner of the abutting property adjoining which such beach shall have been constructed; and the failure of any party of the second part to comply with and perform any covenant herein contained and on his part to be observed and performed shall not avoid the same but the party of the first part may enforce the observance and performance of such covenant by any proper legal proceeding.

That this agreement shall be deemed a several and not joint agreement, and shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns, but the same shall not become effective for any purpose unless and until the United States of America by presidential proclamation or other lawful means, shall have transferred all its title in and to the area described in said Exhibit A to the party of the first part.

In witness whereof, the party of the first part has caused these presents to be executed on its behalf by C. T. Bailey, Commissioner of Public Lands of the Territory of Hawaii, and countersigned by W. R. Farrington, Governor of the Territory of Hawaii, and by Lyman H. Bigelow for and on behalf of the Board of Harbor Commissioners of the Territory of Hawaii, and the parties of the second part have caused these presents to be duly and properly executed as of this 19th day of October, 1928.

The Territory of Hawaii;

(Seal)

By C. T. Bailey,  
Commissioner of Public Lands.

Countersigned:

W. R. Farrington  
Governor.

Board of Harbor Commissioners

By Lyman H. Bigelow,  
Chairman.

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 468, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO COASTAL ZONE MANAGEMENT," passed Third Reading by a vote of 40 ayes to 9 noes, with Representatives Berg, Carroll, Hanohano, Keith-Agaran, C. Lee, Luke, Nishimoto, Shimabukuro and Takumi voting no, and with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1692) recommending that S.B. No. 389, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 389, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 389, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENT PROJECTS," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1693) recommending that S.B. No. 496, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 496, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I'm rising in opposition to SB496, SD 2, HD 2. Thank you. This is relating to Charter Schools. This bill eliminates the per-pupil funding method and requires Charter Schools to follow the same budgetary request process as other State agencies. It also has several provisions giving the Department of Education and the Board of Education more control over Charter Schools.

"Charter schools, although they are public schools, have never received the same funding as Hawaii's traditional public schools. Currently, the law requires that Charter Schools receive a per-pupil amount, based on a funding formula. And, throughout the process of coming up with that number, there are many different levels that don't necessarily follow that formula.

"This year, Charter School students are receiving approximately 8.8% less per pupil than they did in 2007 and 2008 school year. And, under both the Governor's and House's version of the budget, Charter Schools will have a combined decrease of 17.7% per pupil. Keep in mind that this also means a lot of the other types of support that other schools get, like facilities' funding, is not in the Charter School amount that is in the budget bill right now.

"The Charter Schools also have lost what equates to millions of dollars of support for Charter Schools through some of the DOE cutbacks that they had done in submitting their budget. Clearly, there are problems with Charter School funding, but this bill is not the solution. Our Charter Schools are an effort to decentralize education and put decision-making authority as close to the classroom as possible.

"By allocating funds on a per-pupil basis, local school leaders are empowered to maximize their funds, using efficiency and thrift. Even the DOE Superintendent has said that she wants to go to a per-pupil formula for the traditional public schools. By requiring the Charter School Administrative Office to submit a budget request for all Charter Schools to B&F in requiring Charter Schools to comply with all BOE and DOE directives, this bill enables the Legislature and B&F to micromanage Charter Schools, deleting or approving programs on a line-by-line basis.

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ROUGH DRAFT

"This bill increases the procedural hoops and red tape that Charter Schools will have to go through, and ensnares them in the regulation and bureaucracy that typifies State-run education.

"Mr. Speaker, Charter Schools were meant to bring innovative ways of educating your child to the forefront, and in a lot of the Charter Schools, that has happened. And, what we're doing here is we're moving in an opposite direction. And, just to give you some behind the scenes type of information, the Charter Schools last year, after seeing some of the language having to do with DOE control and BOE control, they killed the bill on the Senate side, because they said, 'We don't want that. That's why we're Charter Schools.'

"And so this year, they've supported this measure and other measures moving forward, because they felt, 'Okay, maybe we were too knee-jerk reaction last year, and we killed the only avenue for any Charter School help.' So, they allowed it to go through Committees, and supported it with reservations and everything.

"At this point in the bill, the appropriation section was deleted, in which they were hoping to get a little bit more funding to help them survive these upcoming two years. Being that that was taken out, and the provisions are to be under the directives of the DOE and BOE, it just makes absolutely no sense for Charter Schools to support this legislation.

"I think the majority of us on this Floor have said that they're in support of Charter Schools, and I hope that you will vote 'no' on this piece of legislation, because it definitely is not in support of Charter Schools. Thank you."

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

"Yes, also in opposition. Just some quick comments. As the Representative of a district that has one of the best Charter Schools in the State, and has been really exemplary in putting out great students and great results, I have seen the ups and downs that Charter Schools have gone through in trying to get equitable funding. As was suggested by the other speaker, this goes in the wrong direction. We need to be going in the opposite direction, and really giving much more independence to these schools, and the proper funding as well. Thank you."

Representative Coffman rose and asked that the Clerk record an aye vote with reservations for him, 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 Takumi rose to speak in support of the measure, stating:

"Thank you very much, Mr. Speaker. I don't have any prepared remarks. I am actually a bit baffled by the opposition on this bill, particularly from the Minority Leader, since she's a member of the Education Committee, and has never stated her concerns to me personally. And until she stood up at this moment, I was not aware that she had grave concerns about this measure.

"Let's look at what's in the bill, Mr. Speaker. As I always say, when in doubt, read the instructions. You know, for the Charter School community, it's been a very challenging journey to try to figure out what would be adequate funding. And let's be clear about this. I don't know of any agency, any department, any program in the State that believes they get adequate funding. So, Charter School community, join the parade, because everybody feels they don't have adequate funding.

"The question is, what should they be getting? This approach merely says that Charter Schools should be under the same budgeting process as every single program, department, branch, agency, service, in the State. They should not go with a per-pupil approach. And let me just say, with the Charter School community, it's very difficult. It's like what Woody Guthrie once said: 'If you want to know the working-class point of view, be sure you only have one worker in the room.' Well, if you want to know the Charter School point of view, be sure you only have one Charter

School in the room, because there is not unanimity and consensus among the Charter School community, as well. And why should there be? They're made up of very diverse, disparate types of delivery systems and constituencies. So, you're going to have disagreement, even within the Charter School community.

"There are those who are in favor of this approach, Mr. Speaker. But, of course they have some trepidation. They have some concern whether or not, at the end of the day, they're going to actually end up with more money in their budgets than they currently have.

"With the per-pupil allocation, here is the dilemma. The Director of the Budget and Finance Department says she has funded the Charter Schools. She has given them what they should be getting, according to the formula. The Charter School community says, 'No, she did not.' And they go back and forth, and back and forth. Rather than getting engaged in that battle to determine what should be in the formula and what should not be, this approach, in my opinion, is a far cleaner approach.

"As far as the Board of Education being heavy handed, that's again, very ironic because the language that's in the bill was worked out between the Executive Director of the Charter School Administrative Office, and the Board of Education. There was an agreement that this language best conveyed the point of view of both parties. So, again, I'm a little surprised now to hear that some people are worried about that as well.

"It seems to me, Mr. Speaker, the only way we're going to get out of this is to keep this measure going forward, continue to have dialogue and try to figure out what's best for the Charter Schools, because I am a strong believer in Charter Schools. I believe they provide a valuable alternative for our students. And don't get me started about whether or not they achieve better or worse than the regular public schools, because the jury is still mixed on that. But, I still believe that this is an experiment that should go forward.

"But, I am a little dismayed when I hear that there's opposition to this bill, and without any prior discussions about what we could have done to make the bill better. Thank you, very much."

Representative Finnegan rose to respond, stating:

"Thank you, Mr. Speaker. Mr. Speaker, I'm still in opposition, and I do have to comment. The Education Chair has been quite helpful and quite supportive of moving pro-Charter School legislation forward and getting that discussion out there. And, he is correct in regards to me not bringing up some of these things in the past. In the Education Committee, I did talk about the language of Charter Schools following the directives of the BOE and DOE. I did have concerns about that, and language was being worked on. What this is, is it's a tilting point for the Charter Schools. Before, when there was a possibility of having additional funds, and maybe seeing the bill move forward and kind of leaving an open door for possible different ways of a funding mechanism.

"You've got to realize that the Charter Schools are survival type of schools. They come in, they don't have the kind of funding that other public schools get. So, when they have to cut, because the budget comes down and cuts, this goes down to classroom cuts. They don't have a central bureaucracy, or any other kinds of cuts like that to take. So, this is direct services to the classroom, that when they have cuts in the Charter School budget, it goes directly to the support of what each child gets.

"So, I do have to apologize to the Chair on that. This has been an ongoing conversation. It's the lessons that the Charter Schools have learned from last year, having to do with, do we kill a bill right after the first Committee, because we don't want to be another starting of a Department of Education? And like I said, they acted with a very knee-jerk reaction. 'We've got to kill this bill because we didn't like it.' This year they're trying to be a little bit more fluid, a little bit more open on how we might be able to address some of the issues.

"But I do have to say that the Hawaii Charter School Network, which is a combination, and if you look at the opponents of the bill, when they talk about the concerns that they have, whether it be the Hawaiian Charter

Schools, or the Hawaii Charter School Network, the Chair is absolutely right that they come from different places, because they're all different innovation types of schools, and they believe differently. But the Hawaii Charter School Network is a group where they've tried over and over again to bring their voices together in one voice, because they understand that that's the language of this Legislature. And that they have to come together and support something, and that's what they do here. They are basically saying that this is not the direction that they would want to go in. The appropriations section was in there, and now it isn't. So, this is why the strong opposition to it. Thank you."

Representative McKelvey 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 support of the measure, stating:

"Thank you, Mr. Speaker. In support with just a few comments. Mr. Speaker, I appreciate the colloquy, this conversation that we are having between the Minority Leader and the Education Chair. I guess the comment that I would like to insert as this bill moves forward, is that we do, at the federal level have a President and Secretary of Education who are greatly in support, in favor of Charter Schools, and allowing Charter Schools to flourish and develop within all of our states.

"So, as this bill moves forward, I hope that that the parties can continue to negotiate, as has been described by both the Minority Leader and the Chair of Education. Thank you."

Representative B. Oshiro rose to disclose a potential conflict of interest, stating:

"Mr. Speaker, I'd just like to ask for a ruling on a potential conflict. At my law firm, I represent a couple of Charter Schools. 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 S.B. No. 496, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CHARTER SCHOOLS," passed Third Reading by a vote of 41 ayes to 8 noes, with Representatives Bertram, Carroll, Ching, Finnegan, Marumoto, Pine, Thielen and Ward voting no, and with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1694) recommending that S.B. No. 1223, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1223, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. In support with reservations. This bill is designed to protect locally-made crafts from unfair competition coming in. But the language is so broad, and we have to be very, very careful. If not, we're going to impact companies like Meadow Gold, Love's Bakery, Big Island Candies, which suddenly, will find that they're no longer legal. Thank you."

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

"Thank you, Mr. Speaker. I rise in support of this measure. Thank you. While this measure may not be perfect, this bill that prohibits the use of the phrase, 'Made in Hawaii' from being used, as an advertisement or media tool for any item that's not been manufactured, assembled, fabricated or produced in Hawaii, and which does not have 51% of its wholesale added. It will protect our local businesses. And we should promote our local businesses who make, assemble, and grow their products.

"And on the ag front, Mr. Speaker, on the agricultural front, it's not unusual to hear people talking about wine regions, the tastes of wine from particular areas or regions. And now coffee is often assessed by region,

and companies that offer coffee exclusively from Hawaii. Kona coffee. This interest has also migrated to chocolate, and introducing the concept of single-origin chocolate, which is a \$60 billion business worldwide.

"This bill has a potential to bring much value to Hawaii-made commodities, and so I hope this measure passes."

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

"Thank you, Mr. Speaker. In support, with a few comments, and acknowledging the comments of the Representative from the 5th District. In support. Thank you. Written comments to follow."

Representative Tsuji's written remarks are as follows:

"Mr. Speaker, I am in support of SB 1223 SD1 HD2. This measure seeks to preserve the integrity and credibility of products that have been labeled as "Made in Hawaii."

"At present, our local artisans and manufacturers are threatened by imports and other products that claim to have been Hawaii-made. It is not uncommon for their products to be lumped together with so-called "enhanced" imported items made elsewhere by those who may have little to no understanding of the cultural symbols associated with Hawaii.

"Accordingly, this measure would protect both producers and consumers from false or misleading advertising of such products by prohibiting the use of the phrase "Made in Hawaii" unless those items meet designated criteria.

"These efforts are essential if we are to support our local businesses and manufacturers while ensuring the integrity of the products they produce. I urge my colleagues to join me in support of this bill."

Representative Yamane rose in support of the measure with reservations and asked that the remarks of Representative Herkes 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 S.B. No. 1223, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HAWAII MADE PRODUCTS," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1696) recommending that S.B. No. 1060, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1060, SD 1, HD 2, 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. First, I want to say that I am against illegal or disrespectful use of fireworks. Fireworks were started over a millennium ago for sacred purposes, for purposes of faith and understanding and tradition.

"But this measure would impose a surcharge of 50% on the gross receipts of consumer fireworks sold at the retail level. This would only encourage, encourage, I repeat, Mr. Speaker, the 'black market', specifically. It's unlikely to reduce the consumption, since people would just go to vendors with the cheaper prices, specifically the 'black market', which is already, as you well know, in existence, as demonstrated by the number of illegal fireworks set off each year on New Year's Eve, Fourth of July, and on other days of the year, which have no holiday. And this will make the problem worse by driving people away from the legitimate retailers, who have at least some control over the types of fireworks sold.

"This bill would punish legitimate businesses that already play by the rules, by just adding more burdens. Burdens in the form of registration, which includes a \$20 fee. It would do nothing to address the perpetrators,

whose disrespectful actions of using illegal aerals on days other than specific holidays, and up into the ungodly hours of the night, which I've experienced where I live as well. These are the very ones who are purchasing from illegal 'black market' vendors, and they will continue to do so, as long as it's available.

"But we shouldn't be driving legitimate businesses away because we'll, again, just be supporting the black market. This will have a negative effect from a cultural perspective. There are a number of cultural and sacred uses for fireworks, and we must teach our young people to remember that fireworks were once used for a sacred purpose. They still are, and abuse must come to an end. Thank you."

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

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. In regards to this matter, I am concerned with unintentional consequences which may result if we were to place a tax on legal fireworks vendors, and I believe the measure will not address the overall issue of illegal fireworks. The description of this bill is to 'reduce the use of consumer fireworks'. The vast majority of fireworks seen during the holiday seasons are attributed to illegal fireworks.

"As a member on the House Finance Committee, I asked the Honolulu Fire Department how many cases were brought to trial. They stated that there were only two cases and one had gone to court. But as we could see on the Island of Oahu especially on New Year's Eve, there were thousands of illegal aerial fireworks from one end of the island to the other.

"As a matter of fact Mr. Speaker, I believe this measure will further entice consumers to purchase illegal fireworks over paying an increased fee and then have to purchase fireworks at an increased price. The vendors will also be taxed and costs will be passed down to consumers. For these reasons, I am in opposition. Thank you, Mr. Speaker."

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

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

Representative Coffman 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 Coffman's written remarks are as follows:

"A surcharge is another form of taxation on a limited set of the public with the intent to reduce sales. It may create more 'black-market' sales. If we want to limit the use of private fireworks displays, we should prohibit the sale of fireworks."

Representative C. Lee 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."

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:

"Currently, there are serious concerns about the effects of fireworks on human health, safety, the environment, and animals. Rather than ban fireworks, this bill imposes a significant tax on fireworks. I am opposed to

taxes that hurt our low- and middle-income workers and our local businesses in particular, but the intent of this tax on fireworks is to discourage people from buying them (and raise revenues to pay for government services).

"I'm comfortable discouraging the use of fireworks by taxing them rather than banning them. However, I have a couple of concerns. There are some types of fireworks, such as sparklers, that have minimal health or environmental impacts, and the cost for these products will go up. Second, it is important to increase revenues to the general fund in these tough economic times, but I would like to be sure that some of the money raised by this tax will be used to enforce the laws against the use of illegal fireworks.

"All that said, I'm hopeful that the increase in cost will reduce the health, safety, and environmental impacts of fireworks while also increasing revenues to help balance the budget."

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

"Thank you very much, Mr. Speaker. With reservations. Actually, as you well know, I'm in favor for a total ban of fireworks in our State, except for professional displays. And so, I think it's just gotten way out of hand as the years have gone by. I introduced a bill to do that. It start off a bang. This is a whimper in my opinion. And, here is the rub with this bill that's problematic. With that surcharge of 50%, those dollars go into the general fund.

"I would be far more open to supporting this bill if that 50% surcharge went to increased enforcement. By saying that 50% surcharge really goes back into the general fund, I believe that we will have no more additional enforcement of those who are using illegal fireworks, and also those who do use legal fireworks, but in an unsafe and inappropriate manner. Thank you, very much."

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

"Mr. Speaker, I rise with reservations and want to reinforce the previous speaker's note on we're singling out the wrong people. Not the ones who are legitimately selling fireworks, but the enforcement of those who are doing illegal fireworks. The bangs, the booms, the rockets, the great glare. We had a discussion in the Finance Committee. We asked the Fire Chief, 'Well how many people got investigated, or how much of the enforcement took place?' They said, 'Two.' And one was still pending.

"So, there's literally no enforcement, so we can add law after law and pile it on, if we don't get any enforcement. Punishing these guys who are legitimately selling fireworks, and increasing the price to our constituents, this doesn't make sense. You don't have be a psychiatrist or a motivational rocket scientist to know that the structure of the incentives in this business are all wrong. Entirely wrong. It's this poor policy. It's just not the right way to go. Thank you."

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

"I rise in support. Mr. Speaker, first let me say I am for a total ban on fireworks. Let there be no mistake about that. The proliferation of fireworks at both New Year's and July 4th has escalated into an increasingly serious public health and safety problem. Legal fireworks, like fountain torches, sparklers, and red devil firecrackers spout a great deal of noxious smoke. The air in my community becomes polluted and the noise creates needless emotional distress in young children and pets.

"At least three times a year, fireworks cause fires to break out everywhere, in trashcans, on the street, and in dry brush. Warnings of caution during periods of drought do no good. In Mililani two years ago, these incendiary devices even engulfed a storm drain in flames. Hundreds of small fireworks-related blazes are started from fireworks every year, and they cause injuries too. The required overtime of police officers and firefighters overextends their resources, to say the least. To compound the problem, the deafening, concussion-blast of illegal fireworks absolutely

terrifies animals and has the potential to damage the hearing of children. Illegal aerals also greatly increase the risk of fire and personal injury, as they are designed for professional use only; not the reckless thrill-seeking of judgment-impaired lawbreakers.

"Mr. Speaker, I fully support this bill becoming law. A new surcharge on the sale of consumer fireworks would be a lot more effective than an increase in permit fees. A surcharge would likely decrease the amount of fireworks purchased and increase reporting requirements. This would allow government to keep an eye on quantity sold and imported.

"If this were just an increase in the permit fee, we would merely be encouraging illegal sales. If the price goes up, less will be sold. That's the bottom line. Just like we saw with the price of gasoline a few months ago. It's a classic. Fireworks surcharge funds could be used to tighten inspections of imported goods, including legal and illegal fireworks. It's time for the Legislature to take some action on the fireworks problem. This is the last vehicle we have.

"Quite frankly, I support a total ban, but this is a start to decrease use and monitor importation in sales. 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."

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

"Mr. Speaker, I'd like to change my reservations vote on Stand. Com. No. 1696 to a 'no' vote. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1060, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO FIREWORKS," passed Third Reading by a vote of 38 ayes to 11 noes, with Representatives Awana, Cabanilla, Chang, Ching, Finnegan, Marumoto, Nakashima, Pine, Sagum, Souki and Tokioka voting no, and with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1697) recommending that S.B. No. 605, SD 1, HD 2, as amended in HD 3, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 605, SD 1, HD 3, 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."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 605, SD 1, HD 3, entitled: "A BILL FOR AN ACT RELATING TO NOISE," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

At 11:33 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1345, SD 1, HD 1  
 S.B. No. 468, SD 1, HD 2  
 S.B. No. 389, SD 1, HD 2  
 S.B. No. 496, SD 2, HD 2  
 S.B. No. 1223, SD 1, HD 2  
 S.B. No. 1060, SD 1, HD 2  
 S.B. No. 605, SD 1, HD 3

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1699) recommending that S.B. No. 1173, SD 2, HD 2, as amended in HD 3, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1173, SD 2, HD 3, pass Third Reading, seconded by Representative Evans.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, and the report of the Committee was adopted and S.B. No. 1173, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO ENERGY EFFICIENCY," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1700) recommending that S.B. No. 1202, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1202, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, and the report of the Committee was adopted and S.B. No. 1202, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION ENERGY INITIATIVES," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1701) recommending that S.B. No. 1258, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1258, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I'm rising in support of Standing Committee Report 1701 and Senate Bill 1258, Relating to Renewable Energy. Mr. Speaker, I would like to request that I'd be permitted to enter some brief comments in support by the Sierra Club, because I think they say it very well. Thank you."

Representative Thielen submitted the following comments from the Sierra Club, in support:

"This bill clarifies that Hawaii's energy objectives (our renewable energy portfolio standards) should be met with only clean, indigenous, renewable sources of electricity. Energy efficiency – a wonderful concept – should be encouraged independently of our efforts to develop renewable energy. What is the background on this measure? Hawaii is the most dependent state in the nation on imported oil. Some 50 million barrels are imported annually, nearly 80% of which originate from foreign sources. In addition, over 805,000 tons of coal are imported into our state. These sources provide power for over 92% of Hawaii's electricity generation. The combustion of these resources also contributes of 23 million tons of climate changing greenhouse gas into our atmosphere annually.

"The Sierra Club supports this measure, but suggests we can be more aggressive in our goals. 20% of net electricity sales should be renewable by 2015; 30% by 2020; 40% by 2025; and 50% by 2030."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1258, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1702) recommending that S.B. No. 1260, SD 1, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1260, SD 1, 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 rise to speak with reservations on SB1260, SD1, HD1, Stand. Com. No. 1702, Relating to Air Pollution Fees. Thank you, Mr. Speaker. This bill removes the cap for air pollution emissions in excess of 4,000 tons annually from covered sources. Records have indicated that at most times, only the HECO Kahe generating station would be affected by the removal of the emissions cap. Kahe's fees would then increase about 45%, approximately 510,000 to 740,000 per year.

"Mr. Speaker, the fee program was established in 1992 to support air program activities pursuant to the Title V of the Clean Air Act. The emissions cap was an option that Title V made available to states in designing their fee program, to lessen the annual fee burden on the very large sources. Retaining the cap provides continued relief for the electric generating facilities, and also their customers, for which increased fees are ultimately charged.

"Mr. Speaker, what happens with this is that you're basically going to basically pass on that increase in fees onto the consumers, and I know that that is something we do not need in this time; increasing any kinds of fees, especially for consumers of this electricity. Thank you."

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

"Mr. Speaker, I also rise on this measure, with reservations. I'm for cleaning up air pollution. But on the other hand, I feel that this is the real anti-business measure, as so many of these bills before us today are. It's also an anti-consumer, because they will simply pass on the increased fees to all of us who use the services of electricity. So, I am voting for this, but I have serious reservations. I think the increase is much too high. Thank you."

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

"Mr. Speaker, I rise in strong support. A couple of short points. Number one. At the hearing, there was a representative of Hawaiian Electric present in the room. They did not provide any testimony in support or in opposition. Number two, in the Committee Report, you should read it. There is an indication that this Legislature would not want those particular increases to be passed on to the consumers or rate payers. Thank you."

Representative B. Oshiro rose to disclose a potential conflict of interest, stating:

"Mr. Speaker, on this measure, I'd like to ask for a ruling on a potential conflict. At my law firm, I represent Hawaiian Electric, but only in matters related to labor standards and OSHA. Nothing related to this. Thank you," and the Chair ruled, "no conflict."

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

"Thank you, Mr. Speaker. I rise in strong support. Just a quick comment. It makes no sense in this time to allow the largest polluters to continue polluting our air. We are all aware of the climate change problems. And that's all I want to say. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1260, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AIR POLLUTION FEES," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1704) recommending that S.B. No. 1160, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1160, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I am in favor of this bill with reservations. Senate Bill 1160. It's meant to make the administration of housing projects by HPHA more efficient, and was amended by adding a Part II, which requires legislative approval, prior to the sale or lease of any public housing project.

"The legislative approval does not make the administration of HPHA Housing Projects more efficient. In fact, it does the exact opposite, adding additional bureaucratic red tape to wade through. The bill was supposed to alleviate the 9,000 person waiting list for public housing. However, the addition of Part II will only make this problem worse, by inhibiting mixed use developments, which are an important piece of solving the affordable housing puzzle by creating more hoops to jump through in order to sell or lease HPHA public housing projects. This bill will discourage much needed housing developments and stifle any attempt at alleviating the housing problems facing Hawaii's people.

"This is government at its worst. Why unnecessarily slow down government? It's slow enough as it is. Thank you."

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

"Thank you, Mr. Speaker. In support of the first part of this bill, but I do have the same types of reservations as the previous speaker. So, with reservations. Thank you."

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

"In support of Part III and in support of the bill, Mr. Speaker. And, I would just like to rise to explain why this piece needs to be included in this legislation. First of all, I'm in support of those 14,000 people waiting to go into public housing, and the additional people that need to get on this list for public housing.

"I think it's important that since the Legislature funded this public housing, it needs to be discussed more. There has to be more openness, rather than a group of nine members that make this decision. The public housing projects that we have are key components to solving affordable housing and homelessness in Hawaii. And I'm not saying that the initiative to sell them and make them mixed use is a bad thing, Mr. Speaker, but I think it needs to be discussed more. And rather than going through it without 'sunshine' in the process, I think the Legislature needs to discuss it.

"These are major real estate projects that the State owns. So, I just thought we need to discuss it more. Mixed use is not bad, but again, on the other hands we have 14,000 people waiting to go into low income housing, in which they want to change it just .5%. I think we need to discuss it. Thank you."

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 have reservations on SB 1160 and I quote from The Legal Aid Society of Hawaii's testimony:

356D- Assessments for common area expenses:

Public Housing Authorities and project owners faced with increasing costs and sometimes inadequate subsidies often look for ways to collect extra revenues from tenants. Tenants in state-assisted housing have current rental agreements. This agreement is binding upon both parties. The current rental agreement includes a procedure which must be

followed before a PHA can make future changes. Additional charges plus the proposed rent increase, may result in many tenants being unable to remain in state-assisted housing.

356D-91 Eliminating most procedural requirements for evictions. Federal statute and case law stress the seriousness of eviction for a public housing tenant. Most serious of these consequences is a life-time ban from public housing. Because of the seriousness of eviction, federal law and regulations require that the public housing agency may not terminate the tenancy except for serious or repeated violation of the terms or conditions of the lease or for other good cause. 42 U.S.C.A. §1473d(1)(4).

The statutory language implemented by HUD regulations provide that: the PHA may terminate the tenancy only for serious or repeated violation of material terms of the lease, such as failure to make payments due under the lease or. ...other good cause. 24C.F.R. §966.4(1)(1).

It is well-established that unexcused and unjustified chronic nonpayment of rent is good cause for eviction. There are however, many situations in which a tenant may not have paid the rent that is allegedly due, but that fact alone will not constitute good cause to evict:

- (1) rent has been improperly calculated,
- (2) the tenant has lost income and the rent should have been reduced,
- (3) the tenant should have been provided additional subsidies that would have avoided the nonpayment,
- (4) the sums paid are not rent, but some other charges,
- (5) the amount that the tenant has failed to pay is too small to justify eviction,
- (6) the nonpayment has been caused by factors beyond the tenant's control, and
- (7) the nonpayment has occurred only once.

The current procedure of informal contact between a tenant and management prior to an eviction hearing provides a means to determine whether one of the above situations is responsible for nonpayment. The informal process is a means to resolve a non-payment issue without the expense and trouble of an eviction hearing. Tenants facing eviction from HUD-subsidized housing have numerous federal procedural rights in addition to the basic substantive protection of good cause for eviction. The Due Process clause of both the state and federal constitutions apply to the procedures that must be followed to evict a tenant.

Federal law mandates that the Grievance Procedure be attached as an addendum to the rental agreement. Current leases contain the Grievance Procedure promulgated in July 2006. Currently Section D of the grievance procedure covers delinquency in rent. HPHA must follow strict procedures to inform tenants of any changes to the grievance procedure. The current proposed bill makes no allowance for these required procedures.

Elimination of nearly all procedural protections for evictions due to failure to pay rent, will result in no unwarranted evictions and more frequent Chapter 91 Administrative Appeals. Modifying the procedures would be considerably more effective than total elimination.

§356-92 Section 4: Elimination of Eviction Board  
Currently there is one appointed hearings officer in Honolulu. This hearings officer conducts formal eviction hearings. However, the Eviction Board is the final arbiter in a tenant's eviction. Under federal law, PHA may appoint a hearings officer, rather than a eviction board. However, PHA needs to appoint someone who has knowledge of the applicable laws and regulations.

Failure, to do this will result in appeal of decisions."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1160, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII PUBLIC HOUSING AUTHORITY," passed Third Reading by a vote of 48 ayes to 1 no, with Representative Bertram voting no, and with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1705) recommending that S.B. No. 19, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 19, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Just a comment with reservations. This is like many of the other and some of the preceding bills that are going to hurt small business. This punishes the small guys because they don't have apprenticeship programs. That stunts them from growing bigger. Mr. Speaker, my sense is it would be better to have an apprenticeship tax credit, than a 5% penalty when their bidding for various work here. Thank you.

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

"Mr. Speaker, in support. I just wanted to point out, a comment was made that the apprenticeship bill, Stand. Comm. Report Number 1705, SB 19 would hurt the little guy. It won't hurt the really little guy because they're excluded. Any contract of a value of less than \$250,000 is excluded. In the long run, it helps big guys too, because it wasn't that long ago when the economy was going well, that we were very concerned that we didn't have enough of the right kind of skilled workers. We need to prepare for the future, which, economically is much brighter than our present. So, that's the reasons for my support. Mahalo."

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

"Thank you, Mr. Speaker. On Stand. Com. No. 1705, with reservations and some short comments. The reason why I have concerns over this bill, Mr. Speaker, is it gives significant competitive advantage in the public works bidding process to employers who are able participate in the apprenticeship programs, at the expense of those who cannot.

"Mr. Speaker, the outcome of this bill is that the reward or preferences based on the affiliation with a registered apprenticeship program. This places an additional requirement on bidders and results in an uneven bidding situation for contractors who are affiliated with unions, and those who are not. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 19, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1707) recommending that S.B. No. 1122, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1122, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise in support. During these difficult economic times, balancing the State budget has proven itself to be a monumental task. This Body and the Finance Committee in particular, has dedicated itself to exploring a multitude of options for reducing State expenditures. One idea

that has come up is the furlough of State employees, a proposal that we all know has to be implemented by the Executive.

"Our State employees provide valuable services to our citizens. They've already traded off the salaries that they might earn in the private sector, for attractive benefits packages. Reducing State employees' salaries through furloughs requires them to make a further sacrifice. In exchange, however, this bill will ensure that furloughs, if they are implemented will neither constitute breaks in employees' employment, or negatively impact calculation of employees' benefits.

"On balance, furloughs coupled with the preservation of benefits is a far better solution than furloughs coupled with reduction of benefits, or even worse, layoffs and the complete loss of benefits. For these reasons, I support this bill. Thank you, Mr. Speaker."

Representative Choy 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 Choy's written remarks are as follows:

"I am rising with reservations. The public workers union testified in opposition, and the public teachers union is hesitantly in support of this measure, which is actually confusing since this measure is presented to help them both. The unions have indicated to us that these items presented in this measure should be negotiated between our Republican Governor and the unions. I would like to respect their request and stay out of the negotiations."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1122, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

At 11:46 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1173, SD 2, HD 3  
S.B. No. 1202, SD 2, HD 2  
S.B. No. 1258, SD 2, HD 2  
S.B. No. 1260, SD 1, HD 1  
S.B. No. 1160, SD 2, HD 2  
S.B. No. 19, SD 1, HD 2  
S.B. No. 1122, SD 2, HD 2

#### LATE INTRODUCTION

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

Representative Mizuno introduced Mrs. Terry Kaide from Hilo, and her daughter, Ms. Gale Sakaguchi.

#### UNFINISHED BUSINESS

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1708) recommending that S.B. No. 169, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 169 SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, in support of this measure, but I just wanted to refer back to Senate Bill 43, that we passed early on, and basically that is an assessment of the workforce needs of the State. I think before we implement this Health Corps program, it would be really important that we do have the data that it calls for in Senate Bill 43. So, I just wanted to say

I'm in support of this, but we need to have good data before we implement it. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 169, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HAWAII HEALTH CORPS," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1709) recommending that S.B. No. 1142, SD 1, 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 S.B. No. 1142, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PHYSICIAN ASSISTANTS," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1710) recommending that S.B. No. 1673, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1673, SD 2, 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 bill. Mr. Speaker, I think we can do much better than pass a bill that basically shuts down the health system of the State of Hawaii; at least that which is under the wing of the HHSC. I think it's a step forward to some, but for me, it's a step backwards, 17 steps. You go forward one and you go back 17, you lose 16. The fact is, we have 13 hospitals that are in the lurch right now. Those 13 hospitals are going to be transferred back into what we said we were not going to do in 1996, and that is to keep them bureaucratic and under the Department of Health, and under government control, which is inefficient, ineffective. And, in fact, they were going to 'crash and burn' in 1996, and the great hope was to put them in this quasi public-private HHSC.

"Mr. Speaker, this bill reverts back to what we learned in the '80s and the '90s, that the Department of Health controlling this doesn't work. Why are we doing this? This is one of the worst pieces of policy that I can imagine that we would be doing. And, if I was on the Neighbor Island, and I knew that I was imminently jeopardizing the people of my district, I would stand up and shout.

"Now, I know there are some people who say, 'Well, really this is just a shot across the bow,' because the taxi that we're driving in is not going into the direction we want it to go. But, instead of changing the driver, we're changing the taxi. We think we're going to get a new model by restructuring it. It's not only taking the chairs on the Titanic and rearranges them, it's saying that we want to change the ship. Let's make up our mind. Let's be policy-makers, Mr. Speaker. We can do much better than this piece of legislation in solving the problem regarding the health of the people of Hawaii. Thank you."

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

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

"In support. I'd like to quote from the Attorney General. He stated that HHSC doesn't work. We need to get rid of it. We need to get rid of the Regional Boards. We need to get rid of the Corporation. We need to send them back to the Department of Health. We need to hire a 'czar' to manage the Hospital System. We don't even know what the indebtedness of the Hospital System is now. I have two hospitals in my district. I'm in strong support of this bill."

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

"Yes, in opposition. Director of Health is normally a very quiet person, but she could not withhold her emotion against this measure. And as someone who's very experienced in the medical field, she explained to us and tried to help us legislators who don't work in the hospitals to understand how grave a job that they're doing with the very little money that we give them. Over \$100 million for multiple hospitals. She said in the private sector, you would need several hundred million for the same amount of hospitals.

"She said that this bill basically obliterates the whole system, and I understand that some people want to do that because it's a very emotional issue for them, but to think things more clearly and thoroughly is more important I think, in this situation. She really believes that it would really collapse the whole Hospital System for the State.

"For this measure, there will be a transition period of only 90 days to do the transfer. And during that time, none of the hospitals may bill for services rendered to Medicare or Medicaid patients. This puts the hospitals at immediate risk for financial collapse, which places Neighbor Island residents, who depend on these hospitals for emergency hospital and skilled nursing care in jeopardy of losing care completely.

"This bill could potentially result in suffering and death of individuals. A transition of HHSC will need to occur in a span, Director Fukino says, of at least three to five years. Not just 90 days. This bill just simply is not the answer to the situation. Thank you."

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

"Mr. Speaker, I rise in support. Very briefly, I think, again, what I like to do is, I like to look at where we've been in the past. And, for me, one of the most compelling pieces of evidence was Auditor's Report No. 08-08. There she found that there were material financial weaknesses in HHSC. It wasn't just reportable weaknesses. These are material financial weaknesses. Let me just quote what she says:

With respect to the Corporation's internal control over financial reporting operations, we found three material weaknesses. The first one had to do with the Corporation's inability to follow the Procurement Code and its asset management policies and practices do not comply with applicable State laws. As a result, we find several specific violations of State laws governing procurement and asset management. The second material weakness is that the Corporation's inattention to information technology exposes that sensitive information to unnecessary risk.

"I think, what the Auditor did in her report 08-08 was really point out that what we need is some degree of accountability and transparency. And that is why this measure brings back HHSC under the Department of Health. Currently, I think, as the other speakers have stated, we don't know what their indebtedness is. We don't know what they're doing. We don't know where they're going. And those are material problems that will continue to plague this Corporation and this System, unless we are able to find a way to bring it back under control.

"I think the overall idea is that we have a transition, and we don't exactly know what that transition will take us, and where the end game will be. But, we need to bring them back under that transparency and accountability. Otherwise, we can continue to have the Auditor issue her financial reports in her audits every other year, because we continue to hear of all the problems. We can continue to put those audit reports back on the shelf and let them continue to collect dust. Or, we can take a serious look at what needs to be done, and finally step up to the plate and do it. Thank you."

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

"Thank you, Mr. Speaker. With reservations. I'd like to make some comments with reservations, but I'd also like to just make a rebuttal to the previous speaker. We have so many Auditor's reports having to do with

the Department of Education, and we do allow that to sit with us. I don't see anything moving forward in regards to identifying some of those things that need to be redone.

"But, Mr. Speaker, let's get back to this particular bill. This bill allows Maui Regional Health Care System to defect from the HHSC. And on top of that, the opponents of this bill, there's HHSC ..."

Representative B. Oshiro rose to a point of order, stating:

"A point of order, Mr. Speaker. I don't believe that is the measure that's before us right now."

At 11:55 o'clock a.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 11:56 o'clock a.m.

Representative Finnegan continued, stating:

"Thank you, Mr. Speaker. Thank you to the Majority Leader for correcting me on that. It was a related bill and I often mistake the two. Being that we have multiple bills having to address this particular problem, I will save my comments on the bill that I am supposed to speak on. Thank you."

Representative Pine rose to respond, stating:

"Yes, just in rebuttal. Things will continue to be the same if we don't change some things. But completely tearing up the Hospital System is not going to guarantee the result that we want. Of course, if we continue to underfund the System, no matter where you put which hospital, or which department you put it under, it's not going to succeed. The Auditor's report had a lot of truth in it, but it talked only about the problems. So, if there were material financial weaknesses in the system, the better question than, 'Oh let's just have someone else look over it and fire everybody that's at the top,' would be, 'Let's ask, are we funding them in the right way, and with enough money to ensure that they no longer have material financial weaknesses?'

"If we feel that they don't have enough accountability, putting them under a particular department is not going to be helpful, especially when you have the Director herself is saying, 'You want me to do that in addition to my job?' We asked that of her in the Finance Committee. 'Can you run these hospitals?' She said 'No. Not at the same time while I'm the Director of the Department.'

"So, I just think that we really need to definitely look over the Auditor's report, point by point, and that with each point, find a specific answer. Not just throw things all over the place."

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

"Thank you, Mr. Speaker. Just in opposition, and I ask that the words of the Representative of Ewa Beach be entered as my own, and some additional comments. I think it's so important. A number of us, we may have people who want to ask us about how it is to be a legislator, or a police officer, or a firefighter, but there's something to be said for being the person who's in those shoes, right? In other words, the front lines man. The front lines man in this case is Dr. Fukino, head of the Department of Health. And, as the Representative from Ewa Beach mentioned, Dr. Fukino was staunchly against this.

"So, to me, in our good intentions to want to solve problems, the key is not to have rash decision-making. And so, that is my concern, as I do have some hospitals in my district. Thank you."

Representative Ward rose to respond, stating:

"Mr. Speaker, three points in rebuttal ..."

Representative Souki: "Mr. Speaker, recess, please."

Representative Ward: "The rules say you can't, while somebody is speaking, say, 'Recess.'"

Representative Souki: "Mr. Speaker, there's a gentleman in the back there who has been raising his hand for the last half hour. Maybe he's a little too short and you can't see him."

Representative Ward: "Mr. Speaker, I yield the Floor to the Representative who has been standing up and not been recognized."

Vice Speaker Magaoy: "Representative Ward, please continued. I recognized you."

Representative Ward: "Will the gentleman who has not been recognized be allowing me to speak? Or you can have the Floor if you want it."

"Mr. Speaker, a brief rebuttal. Number one, we are in the midst of great irony on this Floor today. We have in the budget that this Body passed, a decimation of a department of 400 employees of a budget untoward, and untold of the amounts. And now we're going to say, you take on this \$450 million enterprise called HHSC.

"Dr. Fukino, who as previously noted, is a very sedate, quiet, not usually given to emotion, but she said, 'You are lucky that this thing is still afloat.' The \$50 million that they are indebted to is small compared to what it was in '96, and the indebtedness that was growing.

"But lastly, Mr. Speaker, let us not be deceived. We have been warned for 13 years that this is not going to work, unless we, the Body here changes how their operating procedures are. They said, 'Under the Procurement Code, we are stifled. Under the civil service rules, we are stifled. We can't operate like that.' So we created Community Boards. We created Advisory Boards. They told us the same thing over and over again. We should not be surprised at anything the Auditor says, or anything that any of the Corporate officers say. We have been warned, and now we're going to take a step back, or 17 steps, and say we're going to put it back into the government. That is not good policy.

"What the Minority Leader was called out of order for is actually part of this whole argument, and that is the model of what we envisioned in 1996. It was a spinoff like the bill that we are going to talk about for Maui. I know we're not talking about that bill, but it's part of the whole package. If that bill wasn't there, this bill would even be worse. So, at least there's some shining hope for the County of Maui. Having said that, Mr. Speaker, I think we really have to rethink this one. Thank you.

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

"Thank you, Mr. Speaker. I'm standing in strong support. I'm getting leg cramps from trying to keep standing up, trying to get your attention. Mr. Speaker, in regards to the numerous comments made before I was allowed to speak in rebuttal. A couple things that I would like to point out, regarding this measure. One of the previous speakers mentioned the fact that this would be implemented July 1st of this year. I think they were looking at an older version. In Finance, it was amended to offer a one year transition period, in which they would give more time for contracts with CMS, DHHS, and the federal government to be worked under.

"Also Mr. Speaker, as we all know, a famous tagline: 'It's a new beginning,' regarding the Department of Health. I guess I'm quite disappointed that, for example, for myself as Chair, I have the confidence in our Director and her staff, as well as this Administration to be able to do the job.

"Mr. Speaker, I am very confident, and I understand the pressure that Dr. Fukino is under, regarding taking on this huge responsibility. However, this is the perspective that we're looking at to address this huge need. Year after year, HHSC has come to this Body to ask for emergency appropriations to fill the existing needs of the people on our Neighbor Islands. People have used terms like, 'people will die.' Mr. Speaker, we are charged in this Body by our obligation to the State, and the people of Hawaii to do what is best in the direction of healthcare.

"So, let's talk about some of the issues. Again, as noted by the Majority Leader regarding the Auditor's report. The Auditor made comments like, 'This corporation has violated the Procurement Code'. And for those who want to read this, you can get it. It's the fiscal review of the Hawaii Health Systems Corporation, by the Auditor. Report No. 08-08, done April 2008. If you go through this, and if you have any concern about the healthcare of the people of this State, and the people of your community, this should raise enough concern for you to look at it and say, that the current management model is not working. And if we do not do something while we have this opportunity to do something, then we have not charged our duties as designated.

"Mr. Speaker, in a time in which we are looking at businesses failing, and discussing reorganization, corporate greed and waste. This is the appropriate time that we all need to look at ourselves and say, 'Does a different model need to be evaluated?'

"Mr. Speaker, we talk about how, yes, this was under the Department of Health previously, and do we go back to that model? If you read the bill, this is a temporary transition, in order for all of us here, all of us who were elected by our constituents to, on their behalf, to reevaluate and ask, 'Is this the best model? Or is there a way to modify this model to provide the best care to the people of this State?' Mr. Speaker, if you go through that and if you see what's going on Kauai, Maui, the Big Island, and also in your district of Kahuku, is there something better, and should we strive for better, for the people of this State? And I say, yes. And fortunately, I do have the confidence that the Department of Health, and members of her Cabinet can do the job. Thank you, Mr. Speaker."

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

"Yes, Mr. Speaker. I wish to speak very strongly in favor, and as the hour is about now that we should be having lunch, I'll make it very short. I'm going to incorporate the remarks of the Chairman of Health and the Majority Leader as my own. And Mr. Speaker, if you just could be patient for a couple minutes, I just want to say that this was not done in a cavalier fashion.

"We met with the Governor's office, and with her staff. We had representatives from the House, representatives from the Senate, and I think the conclusion was that we should be looking at a transition, possibly a year or two transition. The leadership met constantly on this particular issue. They met with the representatives of four of the Neighbor Islands, as to what they think would be best for them. And the general agreement in the end was that we would need a transition period, and look for something better than what we have now. Thank you very much, Mr. Speaker."

Representative Herkes rose to respond, stating:

"Again, in support. The previous speaker talked about the hours and hours and hours that we have spent looking into the operation of HHSC. It's not the hospitals that are the problem. It's the Corporation that is the problem. Year after year after year, Mr. Driskill and his cronies have come into the Finance Committee and say, 'Well, if you bail us out, everything is going to be fine.' We don't have any more money. We can't do that anymore.

"I'm not sure the Minority has any idea of what happened in Kauai. They went out and sold a \$10 million loan. They've encumbered and put at risk a hospital on Kauai. And the Administration knew nothing about it. Nothing about it. We knew nothing about it.

"On Maui, they sold bonds to Wells Fargo. They encumbered Maui Memorial; the receivables on Maui Memorial, Lanai Hospital, Kula Hospital, putting them all at risk. Putting them at risk. I resent the Minority threatening the people in my district, that they might be hurt on healthcare issues."

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:

"I am rising in strong support. The Majority Leader rose to speak of the material weaknesses cited in the Auditor's report of the Hawaii Health System Corporation. It is my opinion that a material weakness comment in the Auditor's report is very substantial and should be explained further. The definition of material weakness is "When one or more of a company's internal controls, put in place to prevent significant financial statement irregularities, is considered to be ineffective. If a deficiency in an internal control is thought to be of material weakness, this means that it could lead to a material misstatement in a company's financial statements."

"The Hawaii Health System Corporation is having severe financial difficulties. It does not help to have nonexistent or inaccurate financial statements."

Representative Finnegan rose to respond, stating:

"Thank you, Mr. Speaker. I am still with reservations on this bill. Just taking a look at this, we understand that there are issues having to do with HHSC. It's a matter of how do you solve those issues, and how do you move forward? This is one idea. The bill that we're going to be addressing a little bit later on in the agenda is another idea. And, that's why the previous speaker from Hawaii Kai mentioned that he liked the other idea better.

"The opponents on this bill, I'm just taking a look at who showed up to testify. Mr. Speaker, in support, you had ILWU, HGEA, and UPW. I'm guessing that's good for labor, because those are the three in support. It's good for labor at the hospitals, and that's great. Well, let's look at the opponents, so we're talking about what's best for the people of Hawaii. These hospitals, East Hawaii Region of HHSC, Maui Memorial Medical Center, Kona Community Hospital, Leahi Hospital, Ka'u Hospital, Maui Medical Group, Maui Memorial Medical Center Foundation, Valley Isle Kidney Disease, and even the Kona/Kohala Chamber of Commerce, and 26 individuals came to speak in opposition to this bill. I would say that that's more representative of the people of Hawaii, than the supporters of this particular bill, having to do with healthcare.

"Mr. Speaker, if you have the hospitals saying, whether or not they agree if the leadership is bad or good or whatever, but if they state, these hospitals are stating, 'We don't want to go there. We don't want to become a part of the State Department of Health.' I think that should give us a red flag, that maybe we shouldn't be heading in that direction. And that's my point. Thank you."

Representative Yamane rose to respond, stating:

"Mr. Speaker, I offer a rebuttal. Thank you, Mr. Speaker. The previous speaker, she has my highest respect, as a member of my Committee. However, she refers to some of the testimony, and she highlights from the regions of Hawaii Health Systems. Mr. Speaker, when I read those comments and I understand their background, this is business as usual. That's what they want. Business as usual.

"Change is tough, Mr. Speaker. Change takes courage. Change takes, looking at something outside the box. If you look at some of these entities that don't want change, is the question, 'Is this what the people want?' Or rather, 'Is this what those people want?'"

"Mr. Speaker, unions, ILWU, UPW, HGEA, represent hundreds of people. When I've met with them, their concern is not just the members of their union, but the members' families, members' communities, their members' workplace, Mr. Speaker.

"When I look at some of the feedback on the opposition of the bill, regarding a volunteer Board Directors, or since its inception as offered by these comments that I have before me. Mr. Speaker, are these the true representatives of the people of those districts? No. We are charged again, during tough times to make tough decisions.

"Now, if we are standing here today to say, 'Business as usual. Let's not change it.' And, let's also look at the adage, 'If it's broken, we need to fix

it.' So, if we don't fix it, then we're saying it's not broken. Thank you, Mr. Speaker."

At 12:14 o'clock p.m. Representative Thielen requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:14 o'clock p.m.

Representative Finnegan rose, stating:

"Thank you, Mr. Speaker. I ask for your patience. In my confusion of the two bills, I believe I mentioned on both times that I spoke, that I was with reservations. Both times, I am a 'no' on this bill. Thank you."

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

Representative Ward's written remarks are as follows:

"Mr. Speaker what this body needs to realize is that the HHSC business model is not viable – whether it's a part of the Department of Health or not. We are deluding ourselves to think that putting the 13 hospitals back into government is going to improve the health of the HHSC System and the health of the people of Hawaii."

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 SB 1673 SD2HD2, which transfers the current HHSC hospitals to the DOH effective July 1, 2009, through June 30, 2011. In this transfer, HHSC and its regional boards would be abolished.

"According to Director Fukino, the implications of this bill could be catastrophic. It could potentially result in a collapse of the entire hospital system.

"There will be a transition period of a minimum of 90 days to do this transfer. During this time, none of the hospitals may bill for services rendered to Medicare and/or Medicaid patients.

"This puts the hospitals at immediate risk for financial collapse which places neighbor island residents who depend on these hospitals for emergency, hospital and skilled nursing care in jeopardy of losing care completely.

"This bill could potentially result in the suffering and death of individuals in need of health care. Do not pass this bill.

"A transition of HHSC will need to occur in a span of 3 – 5 years, not as little as 90 days as this bill proposes.

"This bill will simply will not work, and it does not serve the people of Hawaii."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1673, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION," passed Third Reading by a vote of 43 ayes to 6 noes, with Representatives Ching, Finnegan, Marumoto, Pine, Thielen and Ward voting no, and with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1711) recommending that S.B. No. 1058, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1058, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Yes, Mr. Speaker. With reservations. Basically, the first part of this bill was eliminated, which is regretful. It was to have the Attorney General do a study of low level offenses, drug offenses, especially, to see if there were other ways that we could handle this problem, other than imprisonment. And that's the way we need to go. If we're really talking all this Session about the budget, one of the biggest drains is putting people into prison. They shouldn't be there.

"The second part, setting up a Task Force for medical cannabis. One of the things we found is that a task force run by an agency that's been against this program from the beginning, which is the Department of Public Safety, that isn't a good way to go. The 2006 Task Force didn't accomplish anything, and part of the reason was, it was run by Public Safety.

"So, I got some testimony here, basically saying that we could do with just a few things. Number one, just to change the 3, 4 designation to just a straight across designation. It makes it easier, both on the patients and on law enforcement; and that the one-to-one caregiver can go to one caregiver to every five patients. These are small changes we can make in our current law that will allow patients access to this medicine right now.

"We've even been talking with the Chair of the Health Committee. He was also disturbed that this task force really puts the weight on the law enforcement and other agencies that really have no interest, or any knowledge of the medical use of cannabis. So, I'm hoping we can put a good CD 1 in for Conference, but I encourage the Members to take a look at this particular bill and see how we can make changes to do what we really need to do, which is to allow quicker, safer, more reliable access to this medicine that we promised 10 years ago. Thank you."

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

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

"Thank you, Mr. Speaker. Rising with reservations on this measure. Members, I just wanted to note that this measure refers to medical marijuana throughout this bill. It talks about a task force and has members look at the issues regarding medical cannabis. However, this bill, and the language never went through our Health Committee to look at that. Also Mr. Speaker, some of the questions regarding the makeup and the issues relating to the medical use of cannabis are not reflective of all the members, or those who should be members on this task force. And so, I just wanted to raise my concerns again, that the Health Committee wasn't able to weigh in on the measure at all. Thank you."

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

"Mr. Speaker, after all the discussion of the Medical Marijuana Task Force, I think had better reiterate the need for a Salvia Divinorum Task Force. It is a new hallucinogen, which is not yet on the controlled substance list of the Narcotics Enforcement Division. It has been trying to place it on such a list, but it needs a little bit more study.

"However, this is a hallucinogen, which is available legally in local head shops for \$75 an ounce. And, it is used recreationally to get a real rush and a high. It's a temporary effect, and we don't know if it has adverse health implications or beneficial uses, even. But nevertheless, at least a dozen states and many countries have already put restrictions on this hallucinogen. I think we should take good look at it to consider what we should do with it, before it becomes exceedingly popular among people in our State. Especially our young people, who I don't believe should be allowed to purchase and use it.

"So, I have this concern. This is why Part II of the bill is there. I ask that you consider keeping this portion of the bill, since I seem to have a vested interest in it. Thank you very much.

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

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

"Thank you, Mr. Speaker. On that same measure, I'm going to go 'no' on this particular bill, and the main reason is because I'm hearing from the Representative from Maui, that this task force has already been done. We've gone through it with a PSD at the helm, and it's gotten nowhere, according to what movement forward that the medical marijuana community wanted. And so, in this time, when everyone's crunched for time and efficiency, and the use of time management in all our departments, including PSD. I don't think that we should go through that over again.

"So, I'm going in opposition. I would be more open to go head to head with the suggestions that the Representative from Maui had put forward on medical marijuana, and then we just vote 'yes' or 'no,' instead of going through another delayed task force that he doesn't think, from what I gathered from his words, would actually accomplish something. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1058, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES," passed Third Reading by a vote of 46 ayes to 3 noes, with Representatives Choy, Finnegan and Tokioka voting no, and with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1712) recommending that S.B. No. 1611, SD 2, HD 1, as amended in HD 2, pass Third Reading.

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

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

"Mr. Speaker, I rise with reservations on this matter. I do appreciate the intent of this bill, because the revenues collected from this measure will modernize our highways, and I believe that our highways need modernization.

"But, my reservations come from the fact that it raises 10 cents per gallon for the liquid fuel tax, and that would penalize people who live in outlying areas will have to fill up our tanks more.

"So, although I support the intent, there should be another way to make it more fair and equitable in coming up with this funding for our highways. Thank you, Mr. Speaker."

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

"Mr. Speaker, I rise in opposition. Thank you, Mr. Speaker. I rise in opposition to Standing Committee Report Number 1712, Senate Bill 1611, Senate Draft 2, House Draft 1.

"Mr. Speaker, before I get started, I'd like to first recognize and thank the Chairs of Transportation and Finance, because I do believe that they did mitigate many of the ramifications of this bill.

"But my opposition is based on several things. This is the Administration's or the Executive Branch's proposal, known as the Highway Modernization Plan, which proposes to increase the fuel tax, the vehicle registration fee, the vehicle weight fee, and rental motor vehicle surcharges for a purported safety and capacity improvements on, among other things, our freeways and roadways.

"Mr. Speaker, my opposition goes to the fact that the timing of this measure is just not appropriate. While I want to thank the Finance Chair for changing the effective date to October 1, 2009, the fact of the matter is this. If this measure is to go forward, our constituents currently pay 17 cents a gallon on the fuel tax. If this measure is to go forward, all of our constituents will now be required to pay 27 cents on each gallon of fuel they purchase.

"Secondly, our constituents pay \$25 per vehicle for the registration fee. Should this measure go forward, our constituents will now be required to pay \$45 per vehicle.

"Thirdly, our constituents currently pay 75 cents a pound per vehicle, up to 4,000 pounds. If this measure goes forward, they will now be required to pay \$2.75 per pound.

"Finally, this measure does make permanent the vehicle rental surcharge from \$2 to \$3.

"Mr. Speaker, again, I appreciate the intent of this measure. We all recognize that the State highway funds are drying up. The Administration knew that the State highway funds were drying up. They had six years to propose this measure, and yet, they did not do so. To pass this measure during these tough economic times is not the best thing to do for our constituents. I absolutely recognize the need to enhance our infrastructure system. As a resident of the West side, we continue to be stifled in traffic every day, and where is the relief coming from?

"So, we recognize the fact that we need to increase our vehicle weight taxes to at some point increase the infrastructure moneys. But at the end of the day, my problem with this measure is that it should not be implemented at this time. Something that resonates from me is the testimony of the Hawaii Transportation Association. They stated that no matter when the intended increases are implemented, it will have a huge impact. Implementing it during such bad economic times tremendously multiplies the impact.

"So, for these reasons, Mr. Speaker, I stand in opposition. Thank you."

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

"Mr. Speaker, I also rise in opposition. Mr. Speaker, I agree with everything the previous speaker said, except for one thing. You give the impression that this was the Administration's plan, and this Body had nothing to do with it. There is a trigger missing, which she said, in better economic times, these things will kick in, which by the way, I wouldn't have voted for either. But the point is, it's this Body and the Senate that's going to raise the people's taxes. It's not the Governor's bill. She said, unequivocally, she is against this bill, and I want to go on record repeating that. Thank you."

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

"Yes, Mr. Speaker. I wish to speak very strongly in favor of this measure. You know, it's kind of interesting listening to the arguments that are brought forth. What's even more interesting is when they thank the Chair and they vote against this bill. But that's beside the point, thank you very much.

"Mr. Speaker, they talk about raising the rates and raising the taxes, if they would just take a look around, the harbor group, HUGS is increasing their tariff considerably, so that they can pay for the harbor improvements. The airlines have increased the landing fees, so that they can make the improvements in the airports. And now we want to make improvements in the highways.

"Christmas doesn't come around all the time. You can't do it for nothing. I think it was mentioned by the previous speaker, that they know that the highways need repair, and they know that at some point in time, the tax is going to be increased. There is no good time to raise taxes, but if you would look at the tradeoff, the tradeoff is for the first time in the history of Hawaii, we're going to have a \$4 billion dollar highway

improvement. And you can't tell me that our highways don't need any improvements.

"We're going to improve pedestrian safety. You're going to provide more safety areas, more ramps, new roads, better roads. All this for \$4 billion dollars over a period of six years. These are going to provide jobs. This is going to provide improvements in highways. Yes, you're going to be paying for it. You don't get a free ride on the highways. Right now you're paying for being on highways. You're paying taxes. And you're worried about a 10 cent raise?"

"When our good friends from Arabia raised the price of oil, you'd be paying up to a dollar more a gallon. Not too long ago, you were paying almost \$5 a gallon. There was hardly a whimper. Now, with a 10 cent raise, we're crying like it's the end of the world.

"My friends, sometimes we've got to pay for something that's good. We want a safe highway. We want a modern highway. And this is what this bill will do. Thank you very much."

Representative C. Lee rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. In opposition. It looks like the bid on this one is going to go on longer than the Energizer Bunny."

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 SB1611 SD2 HD2 for the following reasons.

"Our gasoline tax is already at a national high. Our constituents simply cannot afford another tax increase on gasoline. One constituent informed me that his business deploys a fleet of seventeen vans and that an increase in the vehicle registration fee on top of the gas tax would force him to terminate an employee to stay afloat.

"The business owner will also have to pay more under the bill's pilot program that implements a vehicle per miles traveled system. This system penalizes those that live furthest away from job centers. For the small business owner, the more his vehicles travel, the more he is to be taxed. This part of the measure will have an additional negative impact on the people of my district, many of whom are low income earners who could not afford to live in town.

"Mr. Speaker, we need to increase our roadway lane carrying capacity, but this measure is not the formula in which to accomplish that feat. For decades the State's Highway Trust Fund was used to balance the budget and now we are feeling the aftermath of that ill-advised maneuver. If those monies were restored Mr. Speaker, there would be no justification to pass this bill. For this reason, I cannot condone that action by voting for SB1611 which would excuse wayward spending and thrust forth a policy that places the burden of solvency on the backs of the working class."

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

"Thank you, Mr. Speaker. I stand in strong support, and ask that the words from the Representative from Maui be entered into the Journal as if they were my own. Thank you," and the Chair "so ordered." (By reference only.)

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

"Thank you, Mr. Speaker. In support and just a few comments. I really want to thank the speaker from Maui because I think he said some very wise things in his comments. And while I do agree that there is never a good time to tax, I do think that this bill represents an investment in our future.

"I'd also like to point out to Members that there is something else that's very forward-thinking in this bill. There's a section here that encourages and requires, I believe the Department of Transportation to institute a Vehicle Miles Traveled Pilot Program. I think this is something that is going to be positive. I know other jurisdictions in our nation are moving towards this method of replacing, hopefully, the gas tax with the Vehicle Miles Traveled Fee System. There are many issues that are going to be coming up with this pilot program, but I think that the fact that it's embedded in this bill is a good thing, and I support this bill for that reason. Thank you very much, Mr. Speaker."

Representative Har rose to respond, stating:

"Thank you, Mr. Speaker, a brief rebuttal. Mr. Speaker, regarding the Vehicles Miles Traveled Pilot Program. The Vehicles Miles Traveled Pilot Program charges drivers a fee based on the number of vehicle miles used. While I recognize that the speaker from Makiki might support such a bill, because her constituents don't have to drive as far to get into town, for those of us living farther away, this is a regressive tax.

"Mr. Speaker, on the Mainland, the Vehicle Miles Traveled Program works, because, think about this logically. You have people with higher income brackets living outside of the urban core. They live out in suburbia, because they can afford to live out in suburbia. Again, Hawaii is different. In Hawaii, we have to live further out from the urban core, because that's where the affordable housing was. So, for us to have to be subjected to a vehicle miles traveled program, really is a regressive tax towards those living on the Leeward side, or living on the North Shore, or further away from town. I think that this is not a good idea, quite frankly. Again, we're always trying to apply things that work on the Mainland, without recognizing that Hawaii is different from the Mainland.

"To penalize us, particularly residents of the West side who are already having to endure traffic with something like a Vehicle Mileage Plot Program would continue to be inequitable. For these reasons, I continue to stand in opposition. Thank you, Mr. Speaker."

Representative Belatti rose to respond, stating:

"Thank you, Mr. Speaker. Not so much in rebuttal, but in response to the previous speaker. Thank you. Precisely because of the reason that she described about how this could penalize people who live further away from the urban core, I know that there are reservations for this Vehicle Miles Pilot Program. But the reality is that this kind of program is necessary because as we move forward with vehicles that are more fuel efficient, our revenues from the gas taxes will decline. Precisely because of the kinds of concerns raised by the Representative from Kapolei, when we implement this Vehicle Miles Traveled Program, we need to look at what other states are doing.

"Oregon, again has struggled with this problem, with this program since 2001. They have a very detailed report about some of the issues that they work through. I do think that not everything from the Mainland obviously works here in Hawaii, but certainly, as we move forward with this new kind of taxing system, that we can make it fair to all of our residents. Urban, rural, Neighbor Islands, Oahu. Thank you, Mr. Speaker.

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

"I'm sorry. I changed my mind. Can I speak in opposition, please? For this Legislature, this will be one of the biggest tax increases on the people of Hawaii, that we're going to decide on. And, I think it's important, as we start talking about tax increases, we should maybe observe how tax increases or tax cuts have affected other states.

"In the '90s, if you look at the top ten states that decreased taxes, their budget reserves increased. All the top ten states that increased taxes, their budget reserves fell significantly. All the top ten states that decreased taxes, their bond ratings improved, and that's just the opposite for the ten states that increased taxes.

"Unemployment went up in all the ten states that increased taxes. And the opposite for the decreasing of the taxes. Personal income went up for

all the top ten states that decreased taxes. Personal income went down for all the top ten states that increased taxes.

"You know, Hawaii residents are already paying some of the highest taxes for just about everything in the nation. And this bill certainly does not help. I mean, when does it stop? A lot of these other states that are doing so much better, they have better roads than us, yet their residents are paying less taxes. So maybe we should analyze those other states that are somehow paying a lot less taxes than us, yet they still have these wonderful roads and the infrastructure that the speaker from Maui talked about.

"So, I think we really need to take a pause, and before we make the people of Hawaii suffer more, we should really think about that."

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

"In opposition, and I would like to ask that the words, again, of the Ewa Beach Representative be entered as my own. And I wanted to add, in agreement with the Representative from Kapolei, that this is a regressive tax. That this is punitive, and actually, it's punitive to some of the small businesses, so many of who are the museums that are in town. Because if you increase your miles tax of gasoline, what are you doing? You're basically, as we all know from Economics 101, affecting behavior by saying, 'Well, you know what? I guess I'm not going to take that Sunday trip into town. I guess I won't take my kids to the Bishop Museum. I guess I won't take them to whatever have you, in town.'

"We know that the more you raise prices, it's the simplest, number one concept of economics, the law of supply and demand. Demand, as price increases, demand goes down. So, you're not going to want to travel as much. I think that we need to think of it in terms of how we all interact together and support each other's districts. Thank you."

Representative Cabanilla rose to respond, stating:

"Still with reservations, Mr. Speaker. Let me just reiterate that roads are never free. We pay for it one way or the other. And my reservation is that I want that increase in tax to be more fair and equitable to everybody. And this way, with the 10 cents, I think penalizes, like I said earlier, the people who live in further away places.

"I think a better way, a more equitable way, would be increasing the weight tax. Because right now with this bill, it only increases the vehicle weight tax one tenth of a cent, and I think if we want to be fair to everybody, we should tax all people who own cars equally. Thank you, Mr. Speaker."

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

"I rise in support. I'd just like to add a couple of things. When we first heard the House draft of this bill, I was really impressed with the DOT, because besides the usual reasons for raising a tax to alleviate congestion, to fix a pothole, to build the infrastructure on which commerce moves, they also focused upon something that we tend to overlook, and that is highway safety. And I really appreciate it, because the Administration took the position that this tax will not only improve our highways, but save lives. And, I was really impressed by that.

"When I look at this bill here, it talks about the goals of this modernization effort. For example, they would inspect all 760 bridges in the Statewide highway system, within two years, to ensure that our bridges are safe. And, they would address the top 15 sites identified in the rock-fall and slope stabilization programs that are the most critical routes, where the severest of accidents will have the greatest potential negative impact upon the communities. It would also address the top ten sites identified in the shoreline protection program that are the most critical routes where the severest of accidents will have the greatest potential negative impact. And get this, Mr. Vice Speaker, it would also bring 50 of the most deficient bridges up to current structural design standards. So, that alone, I appreciate the thought that went into this proposal.

"And finally, but certainly not least, we would reduce average number of lives lost on our state highway to 100 or less per year. Thank you."

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

"Thank you, Mr. Speaker. Just really short comments in opposition. Overall, my opposition is to the tax increase, and yes, the timing does matter. But, I am equally impressed with this proposal by the DOT and some of the parts that they put into this. They put a lot of work and hard work into this particular plan, but the economy just cannot handle a tax increase at this time. Thank you."

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

"Thank you very much, Mr. Speaker. In support, but I do have some slight reservations, and I do have to express them verbally real quickly, in that the vehicle miles traveled does present a problem to me. I think it is a very regressive system. You look at the Neighbor Islands, especially the Big Island and Maui, you would be looking at the people on the western and eastern side of the Island being penalized the most, whereas people who happen to live in Central Maui, where everything is located, would see the most benefit. The gas tax in that effect is a very fair system, but I would hope that in Conference.

"I don't know if they can look at it, but in Virginia, they just didn't look at the traditional drivers. They looked at other things, like the tires and batteries to spread out the burden, so that it would be, basically a little bit here and there all across the board, so that it matters.

"But at the end of the day, I will continue to support discussion on this Administrative sponsored tax increases, because I think that the highway safety and transportation issues are quite critical. 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 support SB 1611, SD2 HD 2 which authorizes the Department of Transportation to pursue an overdue comprehensive six-year modernization program. The current House draft of this Administration proposal implements the program by providing the resources needed for actual implementation.

"As proposed by the Administration, the revenue required to fund the plan was largely illusory and speculative. It proposed raising the fuel tax, vehicle registration and weight fees, and making permanent the \$3 rental vehicle tax surcharge when at some point in the future certain "triggers" were met for several years in a row. In other words, the so-called Modernization Plan was simply a nice public relations piece with some other Administration having to bear the brunt of any fallout from tax increases in the future. On Maui, where Territorial-style roads daily struggle to serve the rapid growth that took place post-Statehood, it makes far better sense to systematically address maintenance and safety needs in the near future rather than in some speculative Trigger Time. Repairs to our roads and highways simply become more expensive in the end when we delay the necessary periodic maintenance that these roads and bridges require. We also compromise our safety when the road we are driving on is in a state of neglect and disrepair.

"I'm not a spin doctor so I actually would not call it a Modernization Plan – this bill is Basic Infrastructure 101. Especially during these times of economic recession, we cannot afford putting off these safety changes in our critical infrastructure. For the Neighbor Islands especially, where plantation-era roadways are the backbone of infrastructure, bringing or replacing our central road network isn't "Modernization", it's Basic Infrastructure 101. The projects identified in the plan have been discussed in the past and with the necessary resources in hand, can be put into place. As this Administration's Director of Transportation pointed out in his testimony, "a sound transportation infrastructure system provides for

the safe and efficient movement of people, services and goods. It is the backbone of the economy and is essential to preserving our unique and precious quality of life." Without these tax and user fee increases, we make the untenable decision to accept business as usual, to accept our current safety records, to allow our transportation system to continue to deteriorate, and to accept ever greater and more widespread congestion on our roads.

"I am also in support of this bill because there is a logical nexus between the tax and the expenditures being made, namely that car owners and drivers benefit from the transportation improvements that are supported by these higher taxes and fees. It is also important to know that for each dollar of increased revenue from state monies deposited into the State Highway Fund, there is usually matching federal dollars for expenditures in highway improvement.

"Finally, the higher taxes and fees may result in fewer cars in our highways as our constituents downsize the number of cars per household to avoid the higher "overhead" cost per vehicle owned in the household. This in turn will result in less traffic congestion in our roads.

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

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.

"The projects in this bill and the accompanying fees are going to be necessary for our State to have a highway system that is ready for future growth.

"No one doubts that the Highway Fund is at risk for bankruptcy, and there are many demands being made on the dwindling reserve. Of course, communities with a long commute may look at the vehicles miles traveled (VMT) as a negative, however, there can be adjustments made to the rates for those who must drive long distances to work.

"The trigger placed in the original version of this Administration bill is a way to avoid doing the right thing, and to place blame. We should pass this bill now so that modernization of our highways is begun soonest. The economy will eventually rebound, but to wait several years to implement this bill is not prudent."

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

"Mr. Speaker, reservations. I think the Chair of Finance brought out the valuable points of this bill, and the Representative from Kapolei brought out some other areas that might need to be addressed in Conference. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1611, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAYS," passed Third Reading by a vote of 32 ayes to 17 noes, with Representatives Berg, Brower, Ching, Coffman, Finnegan, Hanohano, Har, C. Lee, Luke, Marumoto, Nishimoto, Pine, Saiki, Thielen, Wakai, Ward and Wooley voting no, and with Representatives Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1713) recommending that S.B. No. 50, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 50, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I'm rising with reservations on this measure. Mr. Speaker, what this does is pits ranchers against renewables, and assuming the bill is going to go to Conference, I would hope Conferees would look at page six of the bill. It reads, or at least it's unclear, if a month-to-month rancher has an existing lease, does that mean that the DLNR cannot let a renewable energy project go onto that land, and it's not clear about what trumps what.

"And, Mr. Speaker, what I'd like to suggest is, I believe that ranchers and renewables are compatible uses together. Wind farms and cattle or horses don't bother each other. Solar projects and the ranching operations don't bother each other. But, the language here is, I think going to lead ultimately to lawsuits, and we don't need to have that. It's just very unclear drafting. So, I hope the Conferees look at it, so we can move ahead with renewables and keep ranching operations going too. Thank you."

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

"Mr. Speaker, I am in opposition to this measure, and I have one quick paragraph to explain my opposition. According to this measure, a lease to a renewable energy producer would be subject to a public process that would include other interested renewable energy producers. And while a healthy level of competition is important to any industry, this competition will come at the worst possible time, after the energy producers seeking the lease has already expended large amounts of capital to create a business concept, land descriptions, financial plans, and more. Disclosure of these plans would be available, not only to the public, but to the competition as well. The competition perhaps could use this information to undermine or undercut the proposal. So, this is my opposition. Thank you."

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

"Mr. Speaker, I'd like a potential conflict ruling. My law firm represents a wind power company who is leasing a land from the State," and the Chair ruled, "no conflict."

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

"Mr. Speaker, I rise in support. Mr. Speaker, we need renewable energy, but we also need cows. We need cattle. We can't let the cattle industry go the way that the chicken farms have gone out, or the milk and dairy farms have gone out. Just about everything in agriculture, which we give from the Constitution to this Body, very much lip service, but we haven't delivered. I think these two can live side by side, as the previous speaker from Kailua had mentioned.

"However, there was a bit of a hit on the Big Island, when basically cattle people were run out of town on their own land, and this piece of legislation may not be perfect, but it's a stance that the cattle have got to have a place to roam. We've got to keep that industry alive. We've got to keep it well. I think we've got enough vacant land, from the sugar and the pineapple fields to put enough energy in renewable, whether it's solar or otherwise together. At the same time, the cattlemen can have their space and their industry can survive. Thank you."

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, shortly after the elections and prior to the opening of the 25th Legislature, I became aware of a move by various renewable energy entities to "grab" state leases throughout the Hamakua area. At a hearing convened by the Senate Water Land Committee in December, it became painfully evident that neither the Department of Land and Natural Resources nor the Department of Business, Economic Development and Tourism had undertaken steps to adopt rules for the handling of renewable energy companies that had been given fast-track status by the Legislature.

"While the Legislature recognized the importance and need to provide favorable business opportunities to forward the State's interest in

developing renewable energy resources, it is also the Legislature's expectation that the Executive Branch shall take the policy intent of the legislation and formulate rules and procedures to insure the proper implementation of those policies to the benefit of the people of Hawaii. This did not occur in this instance, Mr. Speaker.

"Senate Bill 50 seeks to address the lack of rules and procedure by the Board of Land and Natural Resources in their handling of leases sought by renewable energy producers late last year that caught many ranchers and other leaseholders by surprise when they read in public notices by the BLNR that their leases were being brought up for action without any forewarning. Among other things, this bill would require that hearings be held on the island which would be impacted by the decision so that stakeholders in these proceeding would have an opportunity to appear in person to comment on the proposed action and to create a greater level of transparency in government proceedings."

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

"In support, Mr. Speaker. This measure is important, and I hope that as it moves into Conference, both sides can look creatively at the issues. Maybe the answer is putting windmills on cows."

Representative Finnegan rose in support of 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.)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 50, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY PRODUCERS," passed Third Reading by a vote of 48 ayes to 1 no, with Representative Marumoto voting no, and with Representatives Morita and Takai being excused.

At 12:49 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 169, SD 2, HD 2  
S.B. No. 1142, SD 1, HD 1  
S.B. No. 1673, SD 2, HD 2  
S.B. No. 1058, SD 2, HD 2  
S.B. No. 1611, SD 2, HD 2  
S.B. No. 50, SD 1, HD 2

At 12:49 o'clock p.m. Representative M. Lee requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:49 o'clock p.m.

## ANNOUNCEMENT

Representative M. Lee, for the Committee on Finance, requested a waiver of the 48-hour advanced notice requirement for the purpose of decision making on the following measures, tomorrow at 11:30 a.m. in Room 308, and the Chair, "so ordered."

HCR 76, HD1, Requesting the Governor Not to Address the 2009 Fiscal Year Budget Shortfall by Reducing or Restricting the Department of Education's and University of Hawaii's Current Appropriations; and

HR 169, Establishing Policies for the Legislative Broadcast Program's Cablecast of the House of Representatives Proceedings.

At 12:51 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:35 o'clock p.m., with the Speaker presiding.

UNFINISHED BUSINESS

ROUGH DRAFT

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1714) recommending that S.B. No. 636, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 636, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

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

"In strong support."

Representative Luke 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."

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 S.B. No. 636, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF LAND AND NATURAL RESOURCES," passed Third Reading by a vote of 38 ayes to 6 noes, with Representatives Berg, Brower, Choy, Coffman, Hanohano and Nakashima voting no, and with Representatives Carroll, Chang, Mizuno, Morita, Sagum, Takai and Ward being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1715) recommending that S.B. No. 44, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 44, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise with reservations to SB 44, SD 2, HD 2. This bill authorizes the transfer of the Maui Regional Health Care System to a legally constituted entity under certain conditions. It also requires the Auditor to conduct an annual audit of the Hawaii Health Systems Corporation.

"This bill, which would allow only the Maui Regional Health Care System to defect from the HHSC does not seem fair to the other HHSC hospitals. Many of the HHSC hospitals are experiencing financial difficulties, which can no longer be a burden to the State. If there are options out there which can alleviate this burden and increase the quality of care at these hospitals, it should be available to all, not just one.

"Since HHSC has taken the position that the State can no longer financially underwrite the escalating costs of healthcare for communities they serve, it is essential that we look for new innovative ways to involve private partnerships in the provision of care. We must learn from the recent Kahuku Hospital model, which was a pro-business approach to saving a drowning hospital. I believe that they were folded into the HHSC, without the procurement or the civil service requirements.

"The HHSC Corporate Board and corporate management are committed to working collaboratively with each of its 5 regions when they are ready to ensure a smooth transitioning process for any facility or regional restructuring that may be undertaken. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 44, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION," passed Third Reading by a vote of 42 ayes to 2 noes, with Representatives Hanohano and Saiki voting no, and with

Representatives Carroll, Chang, Mizuno, Morita, Sagum, Takai and Ward being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1716) recommending that S.B. No. 995, SD 2, HD 2, as amended in HD 3, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 995, SD 2, HD 3, 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 S.B. No. 995, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS," passed Third Reading by a vote of 43 ayes to 1 no, with Representative Berg voting no, and Representatives Carroll, Chang, Mizuno, Morita, Sagum, Takai and Ward being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1717) recommending that S.B. No. 721, 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 S.B. No. 721, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DISTRICT-WIDE IMPROVEMENT PROGRAMS," passed Third Reading by a vote of 44 ayes, with Representatives Carroll, Chang, Mizuno, Morita, Sagum, Takai and Ward being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1718) recommending that S.B. No. 1069, SD 1, 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 S.B. No. 1069, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY," passed Third Reading by a vote of 44 ayes, with Representatives Carroll, Chang, Mizuno, Morita, Sagum, Takai and Ward being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1719) recommending that S.B. No. 602, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 602, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you Mr. Speaker, I have some remarks with reservations, I'd like to insert in the Journal, but just basically they pertain to a caution of using State Foundation on Culture and the Arts bond funds for operational expenses of other organizations. Thank you."

Representative Marumoto's written remarks are as follows:

"Mr. Speaker, I rise in opposition to SB 602 SD2 HD2, Relating to the Arts.

"This bill authorizes the use of funds from the Works of Art Special Fund for the acquisition, exhibition, preservation and upkeep of works of art, including live performances, in Bishop Museum and Iolani Palace.

"These funds are currently used to acquire contemporary art and support living local artists through the Art in Public Places Program and the Hawaii State Art Museum. Yet, this bill seeks to take monies from those programs to fund the operating expenses of Bishop Museum and Iolani Palace.

"Certainly, Bishop Museum and Iolani Palace are facing financial hardships and need support, but the Works of Art Special Fund was not created for this purpose.

"The Department of Budget and Finance gave testimony, stating that tax-exempt general obligation bond proceeds must be used to fund capital projects. Therefore, I must remind my colleagues that live performances, restoration of works of art and many of the other activities this bill seeks to fund are operational rather than capital expenditures. As such, funding these activities could be a misappropriation of the Works of Art Special Fund.

"Mr. Speaker, thank you for allowing me to rise in opposition to SB 602 SD2 HD2."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 602, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE ARTS," passed Third Reading by a vote of 44 ayes, with Representatives Carroll, Chang, Mizuno, Morita, Sagum, Takai and Ward being excused.

At 1:41 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 636, SD 1, HD 2  
 S.B. No. 44, SD 2, HD 2  
 S.B. No. 995, SD 2, HD 3  
 S.B. No. 721, HD 1  
 S.B. No. 1069, SD 1, HD 2  
 S.B. No. 602, SD 2, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1720) recommending that S.B. No. 1096, SD 2, 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 S.B. No. 1096, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TECHNOLOGY WORKFORCE AND DEVELOPMENT," passed Third Reading by a vote of 45 ayes, with Representatives Carroll, Chang, Mizuno, Morita, Sagum and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1721) recommending that S.B. No. 1665, SD 2, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1665, SD 2, 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 have reservations on this bill. SCR 1721, SB 1665, SD 2, HD 1. I rise with strong reservations on this bill. This bill appropriates Federal Reed Act funds to enable Hawaii's Community Colleges to establish a Skilled Worker and Business Development Center. The Center would provide workforce training to employers and their employees to adapt to changing times and new technology.

"This bill is a double negative. First, UH has not listed this Center as one of its priorities. In these tough economic times, why are we using these funds on a program that isn't essential? And you only think it's essential because we're talking about how we train people into a new job, or make that transition during these tough economic times. However Mr. Speaker, using the Federal Reed Act funds in this manner violates federal laws. This bill allows the Community Colleges to use the Reed Act funds, but only the Department of Labor and Industrial Relations, as the State agency for Unemployment Insurance Trust Funds, is allowed to expend those funds. In addition, Reed Act funds are only allowed to be used for

administering either the State's unemployment insurance law, or its public employment offices.

"Federal staff has confirmed that these funds cannot be used for job training unless it is to train public employment office employees. During these challenging economic times, so many of our workers are being laid off, and the balance in the Unemployment Insurance Trust Fund continues to diminish. Any non-appropriated Reed Act funds should be preserved so that we can make future unemployment insurance payments. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1665, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHER EDUCATION," passed Third Reading by a vote of 45 ayes, with Representatives Carroll, Chang, Mizuno, Morita, Sagum and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1722) recommending that S.B. No. 266, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 266, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you Mr. Speaker. I rise to express a reservation on Senate Bill 266, the climate change measure. This bill establishes the Global Warming Task Force to assess impacts of global warming and climate change trends in the State. And I support the concept of this task force. We do face global warming, however, there is already a Greenhouse Gas Emissions Reduction Task Force. So any recommendations on global warming, including the matter on the prevention and mitigation of impacts, should come from the work of that task force. This could be a duplication of efforts.

"More importantly, this measure funds the task force by using monies from the Tourism Special Fund. If this measure does move forward, Mr. Speaker, I feel the funds should more appropriately be allocated out of the general fund, or an environmental fund, as the tourism industry, at this critical juncture in our economy, greatly needs The Tourism Special Fund for marketing purposes. Thank you."

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

"Thank you Mr. Speaker, I rise in strong support. In testimony in regards to this Climate Change Task Force, the original Greenhouse group gave testimony that they're way too far into their project to add additional tasks, and they really are two separate missions. One is basically dealing with the pollution in our environment and the ozone layer. This group deals with the effects of that and the rising oceans. Thank you Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 266, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO GLOBAL WARMING," passed Third Reading by a vote of 45 ayes, with Representatives Carroll, Chang, Mizuno, Morita, Sagum and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1724) recommending that S.B. No. 713, SD 2, 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 S.B. No. 713, SD 2, HD 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE EMERGENCY ENVIRONMENTAL

WORKFORCE," passed Third Reading by a vote of 45 ayes, with Representatives Carroll, Chang, Mizuno, Morita, Sagum and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1725) recommending that S.B. No. 1338, SD 2, 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 S.B. No. 1338, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HOUSEHOLD ENERGY DEMAND," passed Third Reading by a vote of 45 ayes, with Representatives Carroll, Chang, Mizuno, Morita, Sagum and Takai being excused.

At 1:46 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 1:47 o'clock p.m.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1726) recommending that S.B. No. 62, SD 1, 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 S.B. No. 62, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Third Reading by a vote of 40 ayes to 5 noes, with Representatives Ching, Finnegan, Marumoto, Pine and Thielen voting no, and with Representatives Carroll, Chang, Mizuno, Morita, Sagum and Takai being excused.

At 1:47 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1096, SD 2, HD 1  
S.B. No. 1665, SD 2, HD 1  
S.B. No. 266, SD 2, HD 2  
S.B. No. 713, SD 2, HD 2  
S.B. No. 1338, SD 2, HD 2  
S.B. No. 62, SD 1, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1727) recommending that S.B. No. 695, SD 1, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 695, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

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

"Mr. Speaker, I rise in opposition to this bill. I think we've seen these bills in numerous iterations, in the House bills, Senate bills, over this Session, past Sessions, etc. I think we're sort of 'blue in the face' as to speaking in opposition, but I rise to say that, again, this is a situation where we are passing an anti-business measure, and I think it's not a good idea to hurt our economy at this time. We should do no harm.

"This bill requires the employer to continue medical service to an injured employee, even after the employee's doctor says this employee is ready to go back to work, even if there is a dispute over whether treatment should be continued. So you have to wait until the Director of the Department of Labor has a hearing, and then decides whether treatment should be continued. This could be weeks down the line, costing even more in terms of medical care.

"Here once again we have another anti-business measure. Passage of this bill could lead to abuse and cause unreasonable and unnecessary treatment for non-work related injuries. It could also prolong time off the job, even if the employee's doctor has deemed that the employee is ready to return to work. It's very difficult on fellow employees to cover the workload, and morale suffers as a result.

"The bill is particularly bothersome because at a time when businesses are struggling, it would burden them further by increasing the costs of workers comp and business.

"The Chamber of Commerce pointed to this problem in testimony, stating that these difficult times, further costs should not be imposed, particularly those affected by the proposed legislation. Implementing laws that will inflict further regulatory requirements will undermine efforts to keep business viable or even open during the volatile economic period. And we want to keep our jobs.

"It must also be pointed out that there is a significant cost component to this measure. DLIR estimated that it will require more hearings and more support personnel to conduct all the additional work to address treatment plans and continued medical care issues. The Department estimates that it will require an additional 6 hearing officers; 2 for Honolulu, and 1 each for Neighbor Island offices.

"In addition, they will need 5 clerk typists statewide to timely service additional hearings and decisions resulting from the passage of this measure. The estimated cost is about a half million dollars. We do not have the resources to pay for this. Thank you."

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

"Thank you Mr. Speaker, in support and just a quit rebuttal. Looking at the language of the bill, if the attending physician decides that an employee is ready to go back to work, they go back to work. This only kicks in if there's a dispute between the employer and the employee.

"The other argument that I've heard over and over again, as Chair of Labor is that this isn't a good time to institute any bills that are in any way pro-worker. I would say that that's exactly the same arguments that were made two years ago when the economy was going great guns. And I'd also point out that, just as in a national security crisis, that's the point in time when you're most likely to lose your civil liberties. When the economy is going badly, that's when workers are most likely to lose their rights. Mahalo."

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

"Thank you Mr. Speaker, in opposition to this bill and just short comments. Mr. Speaker, earlier on in this Session I remember sitting down with, I think there was a bunch of us going to the Chamber of Commerce. It was a whole bunch of businesses sitting down and talking about workers comp and other types of anti-business legislation. For the most part, our employers here in Hawaii understand that it's an interdependence that we share with workers, and that if you don't have businesses that are staying afloat, that you don't have jobs.

"So what they were saying in this is, 'Don't make it better for us at this time. We understand that you cannot do that in these tough economic times, but just don't make it worse. Keep everything the same. Give us some stability as to what's coming around the corner in regards to business expenses, but just don't make things worse for us, because we have to do the number crunching and make sure that we can stay afloat and keep people employed.' Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 695, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Third Reading by a vote of 42 ayes to 5 noes, with Representatives Ching, Finnegan, Marumoto, Pine and Thielen voting no, and with Representatives McKelvey, Mizuno, Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1728) recommending that S.B. No. 536, SD 1, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 536, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you Mr. Speaker. I rise in support of Stand Com 1728. Just again, I know I have stood up for this issue before, but I did want to highlight that we get a lot of our State's income from the excellence that is Mauna Kea, from our Astronomy Department. We want to protect that. We want to protect all elements of excellence in Hawaii. The fact is that a lot of the light is traveling to create a glare and to diminish the ability to see the stars.

"But secondly, there have been a number of articles of late this year, one in *USA Today*, I believe, that talks about light pollution, and the fact that it disrupts circadian rhythm, that's your natural sleep, despite having curtains, etc. It's a growing concern, and it's getting more published, not to mention the effects on the natural life in animals. But I think this is something that we're doing that is starting to go in the right direction for this new issue."

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

"Thank you Mr. Speaker, I stand in strong support of this measure. This measure would basically tell us to save money by saving electricity, by saving the amount of light that enters the night sky. Because of what otherwise, the supreme observatories of the world on Mauna Kea and on Haleakala, they're getting distortion. This is a multi-million dollar and really futuristic venture that they're doing.

"In the commemoration of this bill there was some inspiration that came out of the Minority Caucus, Mr. Speaker, and if I may read the following:

Star light, star bright, cannot see because of city lights;  
I wish I may, I wish I might, pass a bill to make this right.

"From the famous poet-lawyer, not yet poet-laureate, Boyd Akase. Thank you Mr. Speaker"

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

"Thank you, Mr. Speaker. In support. Hawaii County addressed this issue for Mauna Kea years ago."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 536, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STARLIGHT RESERVE," passed Third Reading by a vote of 47 ayes, with Representatives McKelvey, Mizuno, Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1729) recommending that S.B. No. 1268, SD 2, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1268, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you Mr. Speaker, with reservations. I just want to thank the Representatives who have been working on this bill. I know it has some possibilities, but it needs a lot of work before it should move forward. There are a lot of concerns about the impact on DHHL lands."

Representative Choy 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 C. Lee rose and asked that the Clerk record an aye vote with reservations for him, 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 support with reservations SB 1268, SD 2, HD 1 which authorizes statewide development of affordable housing units in a way that assists the Department of Hawaiian Homelands (DHHL). This proposal allows DHHL to assign, transfer and exchange county affordable housing tax credits with private developers of projects in the same county. This bill provides another tool for DHHL to get the resources to build the infrastructure and homes required for its beneficiaries.

"I am certainly cautious that the bill may have unintended consequences – that we will be reducing the total number of possible housing units since DHHL will need to build the units anyway and that we will be segregating communities. However, the bill does give counties approval of whether a proposed transfer should be allowed. The counties, at the local level, can address whether it's appropriate to allow, for example, a luxury project in Wailea to transfer its affordable housing obligations to DHHL on Molokai. The sunset provision of the bill also allows us to re-visit the effect of this bill in the future.

"While I have concerns, I believe in giving DHHL as many tools as possible to meet its mission of getting Native Hawaiians into homes. In summary, I would rather err on the side of giving DHHL an opportunity to succeed.

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

Representative Saiki 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 S.B. No. 1268, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AFFORDABLE HOUSING," passed Third Reading by a vote of 45 ayes to 2 noes, with Representatives Berg and Hanohano voting no, and with Representatives McKelvey, Mizuno, Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1730) recommending that S.B. No. 1248, SD 1, 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 S.B. No. 1248, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE ENTERPRISE ZONES," passed Third Reading by a vote of 47 ayes, with Representatives McKelvey, Mizuno, Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1731) recommending that S.B. No. 1299, SD 1, 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 S.B. No. 1299, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ADVANCED FLIGHT SIMULATOR TRAINING," passed Third Reading by a vote of 47 ayes, with Representatives McKelvey, Mizuno, Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1733) recommending that S.B. No. 1664, SD 2, 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 S.B. No. 1664, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY," passed Third Reading by a vote of 47 ayes, with Representatives McKelvey, Mizuno, Morita and Takai being excused.

At 1:57 o'clock p.m. Representative Marumoto requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:58 o'clock p.m.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1734) recommending that S.B. No. 1621, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1621, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you very much, Mr. Speaker. This is a card check bill, and I rise in opposition to this measure. We've heard this before, but it cannot be emphasized enough, this bill is very anti-business and eliminates the secret ballot.

"The secret ballot is a vital part of our democratic institution, and it shows that voters can make their choices free of intimidation or coercion. It's an argument that is not just limited to union elections, this principal extends to all elections, from Presidential to student council elections. The secret ballot represents the true feelings of a voter and must be preserved.

"This is a view that has been affirmed by the courts. The Supreme Court described the secret ballot as, 'the hard won right to vote one's conscience without fear of retaliation.' As it relates to union elections, the courts have consistently affirmed the superiority of the secret ballot.

"In 1969, the Supreme Court affirmed that cards are 'admittedly inferior to the election process.' The Second Circuit Court held that, 'It is beyond dispute that a secret election is a more accurate reflection of the employees' true desire than a check of authorization cards collected at the behest of a union organizer.'

"The Fourth Circuit held, 'It would be difficult to imagine a more unreliable method of ascertaining the real wishes of employees than a 'card check'. Unless it were an employer's request for an open show of hand, the one is no more reliable than the other.' The DC Circuit Court of Appeals stated in 1991, 'Freedom of choice is a matter at the very center of our national labor relations policy, and a secret election is the preferred method of gauging choice.'

"In the last month or so, these arguments have been echoed in the editorials of our local newspapers. The *Star-Bulletin* editorialized that this bill would, 'sidestep secret ballot elections, the trademark of democracy.' The *Advertiser* wrote that when it comes to union certification elections a, 'worker faced with this choice should make it with care, fully informed of the pros and cons, and without undue pressure from either side. In other words, in the same way we elect public officials: in the privacy of a voting booth.'

"A *West Hawaii Today* editorial wrote that, 'Doing away with the secret ballot strips privacy rights of workers, in the same way the card check mechanism strips right of employers to represent fairly their interests.'

"*The Garden Island* stated quite clearly, 'The private ballot election process is the most fair way to determine the collective will of a group of people.'

"Mr. Speaker, I am citing these quotes to demonstrate the widespread recognition of the unreliability of a card check system, and the superiority of secret ballot elections. We should defend the freedom to vote privately and vote this measure down. Thank you."

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

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

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

"Mr. Speaker, in support. I just wanted to address a couple of the points that were made earlier. First of all, this bill does not eliminate the secret ballot. It just gives workers a choice of which method to use. The current method is that you have to get signatures from 30% of the employees of a bargaining unit, or potential bargaining unit. And then you have the sacred, 'secret ballot election' that other speakers have spoken about. This would simply allow the workers to have two separate choices. If you could only get to 30%, then you could have a secret ballot. If you can get to 51% then it's over, as most elections are when you get to 51%.

"I should also point out that some companies already use card check to determine whether their employees wish to unionize or not. What this bill would do is simply give that choice that the employer already has, they can already use card check system if they choose to. This bill simply gives that choice to the employees.

"Also I would just say that, we have to remember too that this bill, as it is written now, affects very few people, very few companies. My understanding is it affects 5 companies, all in the agricultural sector, because the federal law is very broad and leaves very little state jurisdiction. It does not cover agricultural workers, and this bill as it stands would only affect companies that have more than 100 employees in the agricultural sector. Mahalo."

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

"Mr. Speaker, I rise in opposition. Mr. Speaker, unions have done many great things in Hawaii, in the US and overseas. I was reminded as the speaker was talking, about when I worked at USAID Office of Democracy, it was Lech Wałęsa in the Gdańsk shipyards in Poland that brought about democracy in Poland. Freedom to speak out. Freedom to act. Freedom to initiate ones' choice.

"This one, Mr. Speaker, however, is a little bit beyond that. It has put shudders through the nation. It's putting shudders through the business community here, even including the former wife of one of the Governors. And it's going to scare, spook, and otherwise shake an already shaky economy. Shaking an already shaking business community.

"Mr. Speaker, we want to do well for business. We want to do well for labor. This is one of the things that's going to start the hockey puck in the middle of the fight. This is going to begin it, and I'm not sure if it's going to be beneficial to anyone, particularly the people of Hawaii. Thank you."

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

"Thank you Mr. Speaker, I rise in opposition to this bill. Mr. Speaker, we want an open and fair democratic process. And that's why I oppose this bill. Much of the attention has been focused on how this measure robs employees of a private vote in a union certification election. But there's another focus. Another way that this bill weakens democratic institutions of voting. It does it by robbing employers of the opportunity to state their case in a certification campaign. Just as the secret ballot is essential to the sanctity of our elections, so is campaigning.

"A campaign ensures that voters have the opportunity to hear both sides of an argument. The bill accomplishes this by enabling only unions to organize without the employers even receiving notice that the campaign is underway. A union could be recognized by getting cards signed by over 50% of employees before the employer would even know what happened. And as a result, the employer would have no opportunity to state his or her case, or their case, to the workers. So equally troubling, is that this means that the employees would not be making a fully informed choice when they make their decision. And this is because the employees would have only heard one side, the unions accounts and the benefits of unionizing.

"This is just wrong, because employers also have the right to be guaranteed the opportunity to express their views. They're making the investment to establish, to create the jobs that their workers enjoy in the first place. No matter what, a union will still have substantial impact on how the business will be run, and employees need to know that impact before they decide.

"And now there are complaints that employers could abuse their position by threatening or even eliminating jobs of employees during an election campaign, and these are serious, these are valid concerns. However, there are strict laws against this practice. Under the national Labor Relations Act, the employer is forbidden from threatening to move or shut down if workers vote for a union. Nor can the employer promise higher wages if the workers don't organize. If these laws are violated, then the employer should be punished to the fullest extent of the law. But we must distinguish between what is an illegal practice, and what is simply free speech.

"Arguments against unionization are no less legitimate than pro-union arguments. Just because we don't like what one side has to say, doesn't mean that they don't have the right to say it. And after all, isn't this what happens during election campaigns? So Mr. Speaker, I ask that we stand up for a fair, equal, democratic process, and vote no. Thank you."

Representative Rhoads rose to respond, stating:

"Mr. Speaker, still in support. With respect to my colleague from the 27th district, I think there's a fundamental misunderstanding of what rights employees have when forming a union. For the employer to have any say in it is like the Senate telling us who to appoint as our Committee Chairs on this side. Yes, they have an interest in the outcome of who we name as our Committee Chairs on this side of the Legislature, but it's really none of their business.

"If the employees want to take a dart board and say, 'If the dart hits this sector then we're going to be organized by UPW. If the dart hits this sector we're going to be organized by ILWU.' They have every right to form their union on a totally random basis if they want to.

"This is a constitutional right to free association. They can associate with whoever they want, whenever they want, however they want, and the employer has no standing in it to determine what the union organization looks like. Mahalo."

Representative Marumoto rose to respond, stating:

"Thank you. In rebuttal to the Chairman of Labor, no one is taking away the workers' rights to organize and form a union. This is a very important right, and I've been a union member myself. It is just how they organize, and if there's any intimidation on the part of the employer or the union, then we should try and prevent it. But this simply may exacerbate the situation.

"The Chairman also said that this will deal with only agricultural workers and that may be the case according to federal law. On the other hand, it certainly doesn't put any restrictions on who it covers in State law, and it makes me very nervous. I remember reading about a month ago an article by the Farm Bureau Executive Director Alan Takemoto, who said the bill covered many, many entities, such as retail businesses and non-profits, medical facilities, private schools, banks, offices, manufacturing, so it made me quite nervous as to the scope of this bill. I would like to see some restrictions in our State law as to who this law covers.

"I am worried also as to the number, I believe it is restricted to organizations that have 100 or more employees, but we could always change that next year, it could slip to 50 or 25 or smaller. So I am very apprehensive about this measure. I don't know who is covered by this, but I feel like we're telling the businesses in town here, 'you may be next.' Thank you."

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

"Thank you Mr. Speaker, in opposition and I have really short comments. I think the bottom line with this is. I'm just going to pull back from memory, and I remember when former Majority Leader Kirk Caldwell had talked about back in plantation days, and there was like the voting booth and the *luna*. You had the pen, and it had the string attached to the pencil or pen, and you could tell from what side that string swung over to, who you voted for. And I remember when he was telling that story, and even though I hadn't heard it before, it touched me in a way that I said, 'That is unfair.'

"And that's what I get just plain and simple. That at one point in time, things were so unfair to organize in a union, and that the pendulum has swung, and now to preserve, I guess, union activity, we're going to go to making it a not secret ballot. And that's just the bottom line for me, and that's why I cannot vote yes on this. Thank you."

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

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

"In support with written comments, and If I could have the words of the Chair of Labor also included as if they were my own," and the Chair "so ordered." (By reference only.)

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

"Mr. Speaker, I rise in support of SB1621 SD2 HD2.

"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 is a disturbing trend in the country that has led to the erosion of health care 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 law has always allowed the employer to accept the "card check" from a majority of employees and recognize a union as their bargaining agent, but very few do. This measure would give employees the option of holding either a secret ballot or card check decision.

"Too many employers illegally fire pro-union workers during organizing campaigns, threaten to close down the worksite, or hire anti-union consultants to help bust the efforts. It is not uncommon for newly unionized employees to lack a contract a full year after their vote for representation because employers regularly stall negotiations.

"This is not fair and it is not in good faith.

"SB 1621 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, because ultimately, unions are just as responsible as management for a business's ability to thrive in today's economy.

"It is only through the power of collective bargaining that unionized employees make an average of 28 percent more, and are 52 percent more likely to have company-paid health insurance and a retirement plan.

"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 fairer, 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. It will take more than economic stimulus to address this. By passing this bill, we will level the playing field in a small degree by giving employees an option to form unions and bargain for fair wages and benefits. It is important to provide these means.

"This bill applies only to a small number of agricultural businesses in Hawaii, but has a strong symbolic meaning to those who value the place of unions in our workforce."

Representative Pine rose in opposition to the measure and asked that the remarks of Representative Finnegan 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 S.B. No. 1621, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING," passed Third Reading by a vote of 37 ayes to 10 noes, with Representatives Chang, Ching, Coffman, Finnegan, Har, Marumoto, Pine, Thielen, Tokioka and Ward voting no, and with Representatives McKelvey, Mizuno, Morita and Takai being excused.

At 2:14 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 695, SD 1, HD 1  
 S.B. No. 536, SD 1, HD 1  
 S.B. No. 1268, SD 2, HD 1  
 S.B. No. 1248, SD 1, HD 1  
 S.B. No. 1299, SD 1, HD 1  
 S.B. No. 1664, SD 2, HD 2  
 S.B. No. 1621, SD 2, HD 2

At 2:15 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 2:16 o'clock p.m.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1735) recommending that S.B. No. 242, SD 2, 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 S.B. No. 242, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SEAWATER AIR CONDITIONING," passed Third Reading by a vote of 48 ayes, with Representatives Cabanilla, Morita and Takai being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1736) recommending that S.B. No. 1008, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1008, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

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

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

"Thank you Mr. Speaker, in opposition. My understanding is the genesis and the purpose of this bill is to save the county some money. So I don't actually believe it will save the county any money, and more importantly, I think it will result in the degradation of State waters, as well as get us

involved in the business of what's supposed to be done by an agency with scientific expertise, in human health and animal health, as well as public review process.

"So as you think about this bill, I ask that you think about what it says that we as a Legislature stand for. So if you believe that our water quality is so good that we should lower the water quality standards, or if you believe that the county has done such a great job managing our waste water systems, then maybe you should support this bill. But I personally believe that by taking this step, we set a precedent that has never been taken before by any state. And we say to the world that, we can stand up and alter water quality standards without any health basis or health studies or public review.

"When I think about the potential impacts of this bill, I think about what I often tell my kids when it rains. And I tell them, they can't go in the water because it's so dirty, is full of sewage, essentially. Just a short time ago, we had such a major catastrophe, when we had big rains and we had people getting sick because the water quality was so poor as a result of the inadequate wastewater treatment facilities.

"I also ask you to think about how this will look to our tourists and to people who come to visit the State. Because especially in these times, when we're still concerned about bringing people to Hawaii, if we stand up and say that we're okay with lowering our water quality standards, despite all the problems that we're having, and despite the fact that EPA has been constantly putting the City and County under compliance orders to try to get the water quality standards to improve, I think it could really discourage a lot of folks from coming.

"So I just want to ask you, as you cast your vote, to think about what you're also going to tell your kids, as well as your constituents, when we potentially decrease our water quality standards.

"I just want to add one other thing. There is, under the Federal Clean Water Act, very specific requirements for how a state is supposed to go about setting the water quality standards, and it includes the cities, and it includes a public review process. The EPA actually has to approve the water quality standards when they're changed. So in this instance, we may not be able to even set the water quality standards and we may end up resulting in potential litigation. Thank you."

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

"Thank you Mr. Speaker, in strong opposition to this measure. Mr. Speaker, I've seen what the County and the Mayor has done to the water quality in Kailua. Within the last year and a half or so, the Department of Health fined them for, again, not complying with the law. We've had sewage spills. We've had signs up on Kailua Beach, 'no swimming.' Now we have a bill before us which actually says it will reduce pollution standards to the lowest possible limit allowed under federal law, and it adopts the lowest standards permitted for recreational waters beyond 500 meters.

"Do any of you know, or have friends, constituents that go out 500 meters or more? I would say the answer would be yes, all of you would. This means that where they're going to be going is going to have much lower water quality.

"And then we're being asked with this bill, we're being assumed to be the scientists, the experts that have the expertise to pass this kind of a measure. Mr. Speaker, frankly, we don't. And it just doesn't make sense that we go ahead with this. I know the Mayor came over asking us to do it. He made his appearance and did it on the basis of cost. Well, I think the cost to Hawaii, both for our residents and for our visitors, is far higher when we lower the water quality standards. I think that the Mayor should do what is required under the law, and what is required under the court decision that's moving ahead, and not come to us to say, 'Wait, just shortcut it. Lower the water quality standards. Just close your eyes to the scientific evidence, and go ahead and do it because I need it.'

"Well I say to the Mayor, 'no'. And I say to the bill, 'no'."

Representative C. Lee rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. It sounds like we've already had quite a few people speak who are concerned about the bill, so I won't take long. I just wanted to say that I do think that this presents a lot of issues, and if anything, science aside, this is actually just the wrong forum to be dealing with the issue.

"I'd like to see it go back into Administrative Rules and the realm of those best suited to deal with the problem. I would imagine that putting this sort of thing in the legislative process would only cause in years to come, if not next year, those of us who do care strongly about water quality and so forth, to simply submit bills that up it, either for our district or our Island, or statewide or what have you, and you'd have a real disparity there, and a great challenge before us. So I am in opposition. Thank you."

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

"Mr. Speaker, I rise in support. I think there is some exaggerating of issues here. First of all, all we're trying to do at this point is bring our standards in compliance with the federal standards as they are today. The real issue here in the Committee on Energy and Environmental Protection, basically realized that we don't want to take and put rules in the statutes. But based on briefings and hearings, the Department of Health refused to do their job. In addition to getting to current standards, there are typographical errors that have been in the statutes, in the rules for years, and they say they can't make the changes.

"So what this particular statute will do is cause them to put the current regulations in force, but they sunset in two years. We are going to force the Department of Health to do their job, and do rulemaking on each of these issues. These changes will go through EPA for approval, it just happens all at one time, and then the Department of Health will go back through them individually, as they're required to do. Thank you."

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

"Thank you Mr. Speaker, in opposition, and may I have the words of the good representative from Laie entered into the record as if they were my own. Just a brief little side note. Matching federal standards is fine, but one of the rules of federalism is that the states are free to go stronger than the federal requirements, just not weaker. And by adopting the federal standards, we in essence will be going weaker. Remember, these federal standards were basically promulgated through the EPA during the Bush years, so these are the rules that we're adopting. Thank you very much."

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 involved in some litigation representing the plaintiffs that have sued the City over the wastewater treatment violation," and the Chair ruled, "no conflict."

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

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

"Yes, just in opposition. This legislation devalues what makes Hawaii so special. When you see an advertisement for New York's New York, do they have clean, beautiful, blue waters and nice white sandy beaches? When you see an advertisement for Boston, do you see blue waters and white sandy beaches? I don't think I want to lower the standards to the federal standards. Thank you."

Representative Awana 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:

"Mr. Speaker, I stand in strong support. Mr. Speaker, I'm not a scientist or know much about the water quality standards, so what I have to do at times is to rely upon the wisdom of the Committee process. It's my understanding, Mr. Speaker, that this measure, a similar one, passed through the House earlier this Session, and that was endorsed by the Chair of the Energy and Environmental Protection Committee. This is the same language you see here, as referred to by the Vice Chair this afternoon. So based upon those representations, I'll be supporting this measure. Thank you."

Representative Wooley rose to respond, stating:

"Thank you, Mr. Speaker. I just wanted to give some rebuttal to the Representative from Kona. I just wanted to let you know that I did talk to the Department of Health and the reason that they haven't promulgated the rules is they have lacked an employee that they need specifically with this expertise to pass the rules. But they are in the process of hiring, and they believe that they will be able to get those Rules started this year.

"I also just want to state that in terms of the process, sometimes people learn more information as time goes on, and I appreciate that we have this process so that maybe we can make the right decisions as we move forward. Mahalo."

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 respond, stating:

"Thank you Mr. Speaker, just a response to the Finance Committee Chair. When his hair starts glowing green, because he's a surfer and he spends a lot of time in the water, it may be because of the pesticides, heavy metals, bacteria, pathogens and particulates on not just the fresh water and marine life, but also on the Finance Committee Chair's head and body. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1008, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO WATER QUALITY STANDARDS," passed Third Reading by a vote of 34 ayes to 14 noes, with Representatives Berg, Carroll, Ching, Choy, Hanohano, C. Lee, M. Lee, McKelvey, Nishimoto, Pine, Saiki, Takumi, Thielen and Wooley voting no, and with Representatives Cabanilla, Morita and Takai being excused.

At 2:29 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 242, SD 2, HD 2  
S.B. No. 1008, SD 1, HD 2

### THIRD READING

**S.B. No. 350, SD 1, HD 1:**

Representative B. Oshiro moved that S.B. No. 350, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I rise in strong opposition to this bill. Far too often we are motivated to enact laws to be tough on crime. I would like to add two new slogans to our language Mr. Speaker. let's be, 'Smart about crime', and 'Smart about violence'. While this bill may arguably be a 'tough on crime' bill, it is simply a bad bill that is not supported by either the Honolulu Police Department or the Office of the Prosecuting Attorney.

"So what does this bill does is, it expands and creates a dangerous exception from the statutory duty to retreat. It states that an actor is justified in using deadly force and has no duty to retreat if he is attacked in, "any other place in which the actor may lawfully be present." In other words, deadly force to meet deadly force would be allowed anywhere. On the street, at a place of business, at a shopping mall, at the park or at the beach.

"Mr. Speaker, it is striking to me that this seems to send a message different than what we tell our children to do when they may be confronted by a bully and goaded into engaging in a fight. We don't tell them to engage, we tell our children first, to walk away, find an adult, find another means other than violence to resolve a problem.

"Finally Mr. Speaker, proponents of this bill suggest that this policy can give ordinary citizens an increased sense of safety on the street. To the contrary, this bill increases the possibility that innocent bystanders could be injured or killed because of an actor's right to use deadly force wherever he may be. This is precisely the concern raised by the Honolulu Police Department when it states that this bill will, "result in violent confrontations that could have been avoided by retreating and requesting law enforcement intervention."

"This bill threatens to increase violence in our State, Mr. Speaker. Let's be smart about crime and smart about violence, and let's not let this bill be enacted. Thank you."

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

"Thank you Mr. Speaker, in opposition. And I'd just like to have permission to insert an opinion piece written by Bob Herbert of the New York Times that addresses this issue about gun violence. Thank you."

Representative Takumi submitted the following opinion piece:

"Op-Ed Columnist  
The American Way  
By BOB HERBERT  
New York Times  
Published: April 13, 2009

Late in the afternoon on Good Friday, in a cold, steady rain, a gray-haired 60-year-old woman sat shivering and praying on a stone step outside of 1016 Fairfield St., which is where the terrible shooting had occurred. She read from a prayer book and from time to time would take a drag on a soggy Newport cigarette. A candle flickered beside her as she prayed.

Police officers in a squad car a half-block away were keeping a close eye on the woman and the house with the boarded-up windows behind her.

Reluctant to talk at first, the woman eventually whispered, "I'm the grandmother of the kid that killed those cops." She said her name was Catherine Scott and that she was praying for her grandson, Richard Poplawski, who is 22 and being held in the Allegheny County Jail, and for the three officers he is accused of gunning down: Stephen Mayhle, who was 29; Paul Sciallo II, 37; and Eric Kelly, 41.

The officers were killed a week and a half ago as they responded to a disturbance at the house. Police said they were met there by Poplawski, who was wearing a bulletproof vest and was armed with a variety of weapons, including an AK-47 assault rifle.

"My grandson did a terrible thing," said Ms. Scott. "There is no mercy for what he did."

Mercy or not, there is no end to the trauma and heartbreak caused by these horrifying, blood-drenched eruptions of gun violence, which are as common to the American scene as changes in the weather. On the same day that the three Pittsburgh cops were murdered, a 34-year-old man in Graham, Wash., James Harrison, shot his five children

to death and then killed himself. The children were identified by police as Maxine, 16, Samantha, 14, Jamie, 11, Heather, 8, and James, 7.

Just a day earlier, a man in Binghamton, N.Y., invaded a civic association and shot 17 people, 13 of them fatally, and then killed himself. On April 7, three days after the shootings in Pittsburgh and Graham, Wash., a man with a handgun in Priceville, Ala., murdered his wife, their 16-year-old daughter, his sister, and his sister's 11-year-old son, before killing himself.

More? There's always more. Four police officers in Oakland, Calif. — Dan Sakai, 35, Mark Dunakin, 40, John Hege, 41, and Ervin Romans, 43 — were shot to death last month by a 27-year-old parolee who was then shot to death by the police.

This is the American way. Since Sept. 11, 2001, when the country's attention understandably turned to terrorism, nearly 120,000 Americans have been killed in nonterror homicides, most of them committed with guns. Think about it — 120,000 dead. That's nearly 25 times the number of Americans killed in Iraq and Afghanistan.

For the most part, we pay no attention to this relentless carnage. The idea of doing something meaningful about the insane number of guns in circulation is a nonstarter. So what if eight kids are shot to death every day in America. So what if someone is killed by a gun every 17 minutes.

The goal of the National Rifle Association and a host of so-called conservative lawmakers is to get ever more guns into the hands of ever more people. Texas is one of a number of states considering bills to allow concealed guns on college campuses.

Supporters argue, among other things, that it will enable students and professors to defend themselves against mass murderers, like the deranged gunman who killed 32 people at Virginia Tech two years ago.

They'd like guns to be as ubiquitous as laptops or cellphones. One Texas lawmaker referred to unarmed people on campuses as "sitting ducks."

The police department in Pittsburgh has been convulsed with grief over the loss of the three officers. Hardened detectives walked around with stunned looks on their faces and tears in their eyes.

"They all had families," said Detective Antonio Ciummo, a father of four. "It's hard to describe the kind of pain their families are going through. And the rest of our families. They're upset. They're sad. They're scared. They know it could happen to anyone."

The front page of The Pittsburgh Tribune-Review carried a large photo of Officer Mayhle's sad and frightened 6-year-old daughter, Jennifer. She was clutching a rose and a teddy bear in a police officer's uniform. There was also a photo of Officer Kelly's widow, Marena, her eyes looking skyward, as if searching.

Murderous gunfire claims many more victims than those who are actually felled by the bullets. But all the expressions of horror at the violence and pity for the dead and those who loved them ring hollow in a society that is neither mature nor civilized enough to do anything about it."

Representative C. Lee rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

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

Representative Sagum 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."

The motion was put to vote by the Chair and carried, and S.B. No. 350, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO USE OF FORCE," passed Third Reading by a vote of 30 ayes to 18 noes, with Representatives Aquino, Belatti, Berg, Bertram, Carroll, Choy, Coffman, Hanohano, Keith-Agaran, C. Lee, Luke, Nakashima, Nishimoto, Saiki, Shimabukuro, Takumi, Wakai and Wooley voting no, and with Representatives Cabanilla, Morita and Takai being excused.

**S.B. No. 603, SD 1, HD 1:**

Representative B. Oshiro moved that S.B. No. 603, SD 1, 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 Finnegan rose and asked that the Clerk record an aye vote with reservations for her, 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."

The motion was put to vote by the Chair and carried, and S.B. No. 603, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES," passed Third Reading by a vote of 48 ayes, with Representatives Cabanilla, Morita and Takai being excused.

**S.B. No. 1350, SD 2, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, S.B. No. 1350, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO KAKAAKO," passed Third Reading by a vote of 48 ayes, with Representatives Cabanilla, Morita and Takai being excused.

At 2:35 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 350, SD 1, HD 1  
S.B. No. 603, SD 1, HD 1  
S.B. No. 1350, SD 2, HD 1

**S.B. No. 292, SD 1, HD 1:**

Representative B. Oshiro moved that S.B. No. 292, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

At 2:35 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 2:36 o'clock p.m.

Representative C. Lee rose and asked that the Clerk record an aye vote with reservations 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 S.B. No. 292, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FUNDS," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

**S.B. No. 659, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, S.B. No. 659, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE FUNDS," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

**S.B. No. 1111, SD 1, HD 1:**

Representative B. Oshiro moved that S.B. No. 1111, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, on this particular measure, Stand. Com. No. 1603, I'm in opposition. My comments will be short. We just discussed this I believe the other day. When we are looking at a downturn in our economy, and when tourism is having a very difficult time, were talking now about how do we keep the industry afloat. I believe strongly that we don't do it on the backs of pushing away our tourists with increased expenses. Our tourist industry and our hotels are already trying to lessen their room rates to try and attract people to come to Hawaii. They're trying to put packages that lower costs to come to Hawaii and incentivize and motivate tourists to come to Hawaii.

"By doing this, I understand we need to balance the budget Mr. Speaker, but I think that on the backs of the tourist industry in such a depressed economy is not the way to do it. If we look at the supporters and the opponents of this particular bill, Mr. Speaker, it just shows the overwhelming opposition to wanting to increase the TAT. Thank you."

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

"Yes, Mr. Speaker, I have strong reservations. I believe that all revenue from the tax for the transient accommodations should be going toward marketing and should not be diverted. I agree with the former speaker that when times are rough, you need to market more and not less. I do understand, and the reason why I'm not voting no is because I of the need for additional revenue to balance the budget. I can understand why the Finance Committee is doing that. But at the same time, I hope that as we go into Conference, you need to realize that Hawaii is in a global tourist economy. We need to market as much as we can, especially now when the hotels are down over 25%, and some are at 40%. So we need all the money that we can get for that, Mr. Speaker. Thank you, very much."

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

"Mr. Speaker, I am in opposition to this. I did voice my opposition on Second Reading, but I just want to point out again, this is another anti-business measure. I remind you that we're taxing hotels yet again. These are the only entities in the tourist industry that we do tax. We don't tax airlines or ground transportation, tourist activities, restaurants, bars, nightclubs. It's just the hotels that we're asking them to pay the full freight on this for the whole tourist industry. So just to remind you, please vote no."

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

"Thank you very much, Mr. Speaker. In opposition. I know I also gave comments on Second Reading, but if you could indulge me just briefly. First, may I have the words of the speaker from Wailuku entered into the record as if they were my own? And while I agree with him on the marketing, at the end of the day, coming from somebody who has been in the marketing business, you need to actually have a product to market.

"Here's the thing. We could be spending a lot of money on marketing, but if the net result is that our rooms are higher to stay at than the Caribbean, which is a big competitor now for visitor destination dollars, then they're going to choose the Caribbean. They're marketing just as hard, and the playing field of air travel has now been leveled with ticket prices the way they are. West Coast visitors are eyeing the Caribbean very aggressively. So this could have a very serious detrimental short term effect.

"I just would hope that Members would think about this. And if it does go to Conference, that the Conference Committee would really think twice about moving forward 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 Ching rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker, in opposition. I know a lot of points have been made previously, so I won't go too long. But we must recall that we are the most distant place from any land mass in the world. Not Fiji, not Tahiti, but Hawaii. Hawaii is the most distant from any other land mass. So already, to come here, people have to spend a lot of money.

"I know that our newspapers, if you've been watching it, have been talking all about tourism. It is the, number one thing we have to take care of, our number one industry. We're trying to diversify. It's still our number one industry, and we have to take care of it.

"So I think that we should be mindful. We've had the Lieutenant Governor on TV, on one of the main national channels, and we have to look at that. We cannot afford to do this now. Thank you, very much."

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

"Mr. Speaker, I rise in opposition. Mr. Speaker, this bill is about asking the questions, 'Who do you trust? Do you trust the professionals in the industry, who, to each individual in the Finance Committee, said, 'Don't do it. It's not wise. It's not going to help. It's going to hurt. It's not now. If you want to do it, do it later.' Or, do you trust the Governor who said, 'We will balance this budget without tax increases, and without warm bodies being slashed?'"

"Mr. Speaker, I trust the professionals. I trust the Governor. And I trust that we don't need this bill. And I hope in the end, in Conference Committee, because I know it's blank now, even though people have got in their mind a 1% increase, that we'll say, 'You know, we really in the end, didn't need this.' But it's a matter of trust. Thank you, Mr. Speaker."

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

"Mr. Speaker, I'm standing in support. Mr. Speaker, I wasn't planning to say anything because I stood in front of this Body before, talking about, as a former Tourism Chair, how tourism is price sensitive. I did want to acknowledge that the concerns made regarding increasing in any form, the TAT, could have a damaging effect and in a sense, out-pricing us and making us a much more expensive destination.

"However, I do want to highlight the fact that one of the things that makes Hawaii special throughout the world, and you can talk our neighbors in Asia, is the fact that Hawaii has a certain sense of spirit and is a beautiful place to visit. I remind people that a number of our visitors are repeat visitors. They come back because their first experience here was such an important and valuable one.

"So Members, when we're looking at these funds, hopefully for a very short period of time, that we would address some of the basic infrastructure that makes Hawaii special, and will make it easier for our visitors to come and experience what makes Hawaii, Hawaii. To see the native culture. To learn and experience these things with the proper infrastructure. To have their first experience at the various places like our airports, be more than just having dilapidating, dysfunctional areas based only on the price wars of ticket prices or hotel room rates. Thank you, Mr. Speaker."

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

"Mr. Speaker, in support. This bill would increase the Transient Accommodations Tax. If it does increase it by 1%, it's about \$30 million. That \$30 million would go into the general fund."

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 the measure to raise the Transient Accommodations Tax (TAT) to an unspecified amount with the increase amount to be deposited into the general fund.

"Peter Harkness, writing in *Governing Magazine* (Potomac Chronicles, March 2009) stated: "What's missing is serious talk about revenue. It seems to be an article of faith in Washington and across the country that increasing taxes in a recession is a bad idea. But is that true? If so, why is it that during the last recession, in the wake of the Bush Administration tax cuts in 2001, economic growth was the weakest recorded by any Administration in decades? On the other hand, President Clinton raised taxes during his first year in office and the economy boomed."

"The bottom line is, we need to find additional sources of revenue and this increase will be paid for by visitors and not our local residents. Many cities have much higher hotel room taxes including New York City and Atlanta.

"I urge the members' support."

The motion was put to vote by the Chair and carried, and S.B. No. 1111, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 38 ayes to 11 noes, with Representatives Belatti, Berg, Brower, Carroll, Ching, Finnegan, Marumoto, McKelvey, Pine, Thielen and Ward voting no, and with Representatives Morita and Takai being excused.

#### S.B. No. 1343, SD 2, HD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, S.B. No. 1343, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FEES AND OTHER ASSESSMENTS," passed Third Reading by a vote of 43 ayes to 6 noes, with Representatives Ching, Finnegan, Marumoto, Pine, Thielen and Ward voting no, and with Representatives Morita and Takai being excused.

#### S.B. No. 1461, SD 2, HD 1:

Representative B. Oshiro moved that S.B. No. 1461, SD 2, 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 in strong opposition to this measure. In addition to my remarks on Second Reading, I was hoping that our green-haired Finance Chairman would listen carefully. I know the Administration is supporting this \$40 million one-time only windfall. I don't support it Mr. Speaker, because it hits small businesses with this moving up of the date for filing their General Excise Tax. A lot of Members might think, 'Well what's the big deal on this?' It really makes a difference for small business people. Small business owners.

"So when you look at this measure, it's really a greedy, one-time grab to get the \$40 million, and then it's a long-term headache for the small businesses. I wanted to just read brief excerpts from one small business owner's email.

I'm a small business owner that's struggling through these difficult economic times. I realize that the Legislature is dealing with similar challenges, and I'm writing to you in opposition to one of the measures you are considering to deal with the budget deficit. The bill in question is Senate Bill 1461. This bill is anti-small business, and serves no legitimate purpose. The act of moving forward the deadline for filing GET places an administrative and financial burden on small companies like mine.

Many of us rely on outside bookkeeping services to perform our GET compilation filing. We usually have this service done after the middle of the month, when we can reconcile bank statements and deal with other administrative functions. More importantly, this change in filing deadline is of no material benefit to the State. It provides a one-time, bookkeeping adjustment, to move the date of tax receipts forward. This is taking tomorrows money for today, and is nothing more than a game of smoke-and-mirrors.

Please vote no on this bill. Balance the budget like the rest of us by spending only the money you have.

"And I think that this small business owner says it all there. Mr. Speaker, I have some additional remarks that I'd like to place in the Journal, but more than that. I'd like to plead with the rest of you. You've heard bill, after bill, after bill that is anti-business. Bill after bill today, that is anti-business. This one isn't the 'frosting on the cake.' This is going down to the very bottom of the barrel and creating a harm to small businesses that will continue with them. It's a greedy grab, a one-time only grab. And I do not support this Administrative proposal to raise money this way on the backs of the small businesses. Let's just have this go into Conference Committee and never emerge. Thank you."

Representative Thielen's written remarks are as follows:

"Mr. Speaker, I rise in opposition of Senate Bill 1461, Senate Draft 2, House Draft 1. This bill advances the filing and payment of monthly general excise taxes due from the last day of the month to the 20th day of the month.

"In testimony on this bill, it is estimated that the enactment of this legislation would result in a one-time windfall of approximately \$40 million in revenue, and that would help balance our budget, and that tough choices need to be made. I am also aware that the Administration testified in support of the measure.

"This is an anti-business bill, plain and simple. Most people would take a look at this bill and say, it's only 10 or 11 days. It is not a tax increase. How can this be anti-business?

"The Retail Merchants of Hawaii testified that accelerating the filing requirements places additional burdens on business. Many businesses will not have the means to comply with this new law, increasing late fees and penalties.

"As a local CPA testified, proper reconciliation for cash basis payers and proper invoicing for accrual basis payers take time to complete. With recent layoffs at many businesses, more responsibilities are being placed on fewer people, including accounting. Many entities are already challenged to meet the end-of-the-month deadline. This will not make the situation any easier.

"We did something very similar in principle many years ago to meet a large budget shortfall. It was called a payroll lag. We held off issuing paychecks to generate a one-time savings. The consequence of that legislation hurts every new hire by delaying revenues. This legislation makes a grab for tax revenue earlier, but in much the same way, the business community is going to feel and deal with the negative consequences of compliance for many years to come.

"While this proposal appears to help balance the budget "painlessly", it does not help with the long term problem of pulling us out of recession. For this reasons, I stand in opposition."

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

"In support, and I wish that the previous speaker would address the Chair. We wouldn't need this bill if the Department of Taxation would cash the checks when they get them. Thank you."

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

"Thank you Mr. Speaker, in strong support. This bill administratively moves up the filing date by about 10 days. It may cause some businesses to adjust to this. And as the prior speaker said, it may cause some administrative problems. It does allow the State to take advantage of a \$40 million, one-time increase, to help us balance the budget. Is it on paper? Yes. But, well, that's how we balance the budget.

"Secondly, this is our money. This is the taxpayers' money. We're not asking for more money. We're asking for it sooner. The State is not a credit card for people to float taxes that they collect. You and I do not get to pay our income tax withholding a little later so our employer can float the money. We have to pay it up front, when it's due.

"So I understand the concerns and the logistical problems that it might create for some small businesses. At the same time, this is just making sure that while it may seem anti-business, it is also pro-taxpayer. Because the taxpayer is getting their money just a little quicker. And again, government is not meant to be the 'credit card' for people. Thank you."

Representative Thielen rose to respond, stating:

"Mr. Speaker, a brief rebuttal please. The former speaker said that the money is more of a float by the State, or to the State. Let me just read from Hidano Construction on how the legislation works in the real world. Hidano Construction, by the way, strongly opposes this bill.

'In the construction industry, and industry we are trying to beef up through CIP acceleration and federal stimulus money, billings for completed work have to be negotiated and approved by an owner before a company can submit any and all billings. Most construction companies elect to pay general excise taxes on an accrual basis, paying taxes based on billings for the previous month, and not on cash receipts. In reality, the State gets paid in advance – in advance, as a company has not yet collected monies. Often the company has to wait 30 or 60 days for payment, while the general excise tax bill was already paid.' And I'll stress that again, already paid. 'Forcing the construction company or any company to do paperwork 10 or 11 days earlier is going to increase the likelihood of inaccuracies or late returns.'

"And this goes on. Again Mr. Speaker, I will have the balance of the remarks placed in the Journal. But Mr. Speaker, there's no way of looking at this other than it is a hit on small business. You might say, 'Well, if it brings us this amount of money every month, or every year.' If we'll get \$40 million every year more, then you might say, 'Well maybe, maybe, maybe there could be some justification.' But there isn't. It's like the payroll lag. And remember the trouble that that caused to so many people. And here it is, we're saying to the small businesses, the very group we're trying to keep afloat, that we're trying to keep in business, and we're saying to them, 'We're going to make it even harder for you. Stay tuned and wait and see, until the end of this Session how much that we put the noose around your necks so you'll close up and go elsewhere, or just go out of business.'"

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

"Thank you Mr. Speaker, in opposition with some comments. Mr. Speaker, at first when I heard about this bill, I said, 'Well, what's 10 days? It's just 10 days, and we kind of need the help as a government.' And I did change my mind, and I am a 'no' vote. But I guess my concern comes from what I thought I heard from the speaker from Kaneohe. The Representative from Kaneohe. His attitude was as if, well it's the governments money. That strikes me in the wrong way, because it is, sure, its tax money that is owed. But tax money, everything that we do is on behalf of the people of Hawaii. So I still think, the way that I see it is that we're spending their money. And so that comment kind of strikes me wrong.

"But let's also put ourselves in the position of being the small business. And if we are a small business, or big business or whomever, what you're doing is you're taking something that had a due date the 30th, and changing it to the 20th. And you can call it, 'credit card.' You can call it whatever, a bill. I call it a due date. And let's talk about how we might make that change in our own lives. Okay, your mortgage payment was due

on the 15th, and now it's due on the 5th. Your electricity payment was due on the 25th, but now it's due on the 15th.

"What this does, is it takes your planning on how you were going to pay your bills and it kind of turns it and makes it a little bit difficult, especially if you're one of those small businesses or businesses that's hanging by a thread, and maybe needs things to just operate and be reliable and not change. And for some of these companies that have very large payments, I agree, it's money that's already been paid, however, you're changing that due date, and you're interrupting the flow of things.

"So what I would say in this is, we have to think about the small businesses that are having a difficult time right now, and I completely understand why we're looking at this measure. But realize that this is something that is going to affect the small businesses in a large way. Thank you."

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

"Mr. Speaker, I rise in support. Mr. Speaker, just to point out again that, this is a key component of the Governor's Financial Plan. If you go to her website, she does announce this on her March 6, 2009 press release. This accounting maneuver gives her \$40 million in fiscal year 2011. So if she has changed her mind, I'd like to hear from her and see how she'll make the adjustment for the year 2011. Thank you."

The motion was put to vote by the Chair and carried, and S.B. No. 1461, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 33 ayes to 16 noes, with Representatives Belatti, Berg, Bertram, Brower, Carroll, Ching, Finnegan, Hanohano, Luke, Marumoto, McKelvey, Pine, Takumi, Thielen, Ward and Wooley voting no, and with Representatives Morita and Takai being excused.

At 2:59 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 292, SD 1, HD 1  
S.B. No. 659, HD 1  
S.B. No. 1111, SD 1, HD 1  
S.B. No. 1343, SD 2, HD 1  
S.B. No. 1461, SD 2, HD 1

#### **S.B. No. 199, SD 1, HD 1:**

Representative B. Oshiro moved that S.B. No. 199, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Yes Mr. Speaker, I wish to speak with reservations on Senate Bill 199, Stand. Com. Report 1608. I don't believe that the reductions are enough to help us to balance the budget. I believe that we're still not reducing Act 221 sufficiently. And even though I know that the credit is forwarded, I think we can however, do a lot more work with Act 221 than we have. Thank you."

Representative Finnegan 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 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 S.B. No. 199, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

#### **S.B. No. 972, SD 2, HD 1:**

Representative B. Oshiro moved that S.B. No. 972, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise with reservations on this measure. This measure is to make sure everybody pays their taxes, which is good. But, as one not to be named CPA said, this has a little bit of a 'Gestapo' flavor to it. It's really 'hardball'. Taxation and payment of taxes is a voluntary function in the US. This gives hammers and crowbars and other sorts of things. Which means if this bill passes and we don't collect a lot more money, something is wrong with this bill.

"But if it also goes through and it gets watered down a bit, it's because it breaks some of the privacy laws and it is too penetrating in its search for funds. Thank you."

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

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

"Thank you Mr. Speaker, I'd like to stand in support of this measure. In rebuttal to the Representative from Hawaii Kai, you know this is just another measure as part of the Governor's package. This was part of the Department of Taxation's goal to try and collect more taxes in the cash economy where there is believed to be hundreds of millions of dollars of unpaid taxes. It is also to make sure that those of us who do pay taxes, don't have to pay any more. So those who don't, pay their fair share. Thank you."

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

"Mr. Speaker, in support. I'm not sure I heard the Representative from Hawaii Kai correctly, but I think paying taxes in the country is not voluntary. You can go to jail for not paying taxes. If I had known that paying taxes was voluntary, I would have probably considered stop paying taxes a long time ago. Mahalo."

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 proposes major changes to our tax enforcement system to give the Tax Department significant authority to search businesses and enforce tax laws. I strongly support increased tax enforcement to ensure all businesses pay their fair share of their taxes. However, I am concerned that the enforcement powers given to the Tax Department are 'Draconian' and may well result in businesses being too easily harassed by bureaucrats."

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

"Thank you very much, Mr. Speaker. I too have serious reservations on this issue. In deference to the Labor Chair, you're right, paying taxes is a responsibility. But then again, taxpayers have the right to be treated decently and not, in the words of one testifier, 'like enemy combatants.' What's it going to be next? Are we going to start water boarding people?"

"This is just a very overly heavy-handed measure. The Attorney General's Office submitted testimony pointing out some serious constitutional problems with this approach. And the Tax Foundation of Hawaii noted that in the wrong hands, these kinds of laws could lead to some serious abuses of the innocent, and I quote, 'innocent taxpayers.'"

"We're legislators, Members. Why is it that we have to rely on the Governor and DoTAX of all people, to give us ideas? Surely we've got enough brain power in this institution to come up with innovative ideas that aren't going to trample on civil rights and basically 'hose' a whole lot of people. Let's think outside the box. Let's get outside of the DoTAX box, America. Come on. Thank you."

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

"Mr. Speaker, I rise in support. Just by way of background, earlier this year when we were briefed by the Department of Taxation, they made a point that to close the tax gap in Hawaii, we would have to collect about \$2 billion that's out there. In other words Mr. Speaker, about \$2 billion in owed and due taxes are not being collected by the Tax Department on behalf of all citizens of our State.

"What this measure does is ramp up a new enforcement section and empower them with the following duties: to investigate violations, to enforce the tax laws; to retain fraud specialists to assist in the development and review of fraud cases; and hold public informational briefings and hearings to educate the population on the tax laws including compliance issues for small businesses and to encourage compliance among the tax-paying public.

"This also allows them to coordinate their functions and their duties with the federal government, other departments and the counties, and to also follow up on information received from third parties.

"It also would set up a mechanism of the special enforcement section to have additional enforcement monies from the general fund. Those additional monies will be going to the Tax Administration Special Fund to carry out the purposes of this Act.

"Department of Taxation estimates the revenue gained at \$11.9 million for fiscal year 2010. \$11.9 million fiscal year 2010. \$35.6 million in fiscal year 2011. \$35.6 million in fiscal year 2011. This measure will take effect upon approval, provided that section 2 of this measure will take effect on July 1, 2009. Thank you, Mr. Speaker."

Representative Ward rose to respond, stating:

"I rise for a matter of clarification. In noting that it's voluntary, it's voluntary compliance. Today is April 14th, and in one day, everybody in this room will voluntarily file their taxes. What we know in the American tax system is that tax avoidance is okay, but tax evasion is not okay. That's against the law.

"But the point is we have compliance and a relationship between our citizens and the government. They don't invoice us every year for the amount of tax owed because of how many kids we have. We show them what we've made, and then voluntarily pay them. I didn't mean to give the impression that it was something that we can or cannot do. 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 Finnegan rose to speak in support of the measure, stating:

"Mr. Speaker, in support. I just wanted to say that I believe at the heart of this is being able to get to people so that they pay their fair share of taxes. And as we move this bill along, if there are areas where we need to either tighten up or loosen up, I think that we should do that. But the bottom line is, as we are looking at taxes and the burden of taxes on our society, we should also be looking at fair taxes, get those taxes in from people who don't pay it and they should."

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

"Yes, Mr. Speaker. I'm for the measure, with some reservations. I wish to laud your idea, and the repeal of all the tax credits. I think if we did

that, we would be able to balance the budget, including the repeal of Act 221.

"I know it's going a little bit off base, but everybody's concerned about raising taxes. Then the other side, you can't have both. They cannot be providing tax credits and looking at your tax base. And for those of you who are so concerned about the taxes that we have here in Hawaii that we're paying, there are some jurisdictions in California where they are paying 9% sales tax. So we've got a long way to go yet, Mr. Speaker."

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

"Yes, in support, and you know, Mr. Speaker, I'm glad that the Minority Leader is in support of the Administration's policy, and I'd like to have her words in the Journal as if they were my own," and the Chair "so ordered." (By reference only.)

The motion was put to vote by the Chair and carried, and S.B. No. 972, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAX ADMINISTRATION," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

#### **S.B. No. 1678, SD 3, HD 1:**

Representative B. Oshiro moved that S.B. No. 1678, SD 3, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise with reservations on Stand. Com. Rep. No. 1610. AKA the 'Amazon.com bill,' Mr. Speaker. Which, like some bills that we've passed in this House, this is not intuitively understandable. It doesn't come out in street language. It doesn't really know how it's going to apply. But I know that there are some court cases that are going on, on the mainland. It seems to be an obtuse way of sticking up and imposing another tax on the people of Hawaii."

The motion was put to vote by the Chair and carried, and S.B. No. 1678, SD 3, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 43 ayes to 6 noes, with Representatives Brower, Ching, Finnegan, Marumoto, Pine and Thielen voting no, and with Representatives Morita and Takai being excused.

#### **S.B. No. 21, SD 1, HD 1:**

Representative B. Oshiro moved that S.B. No. 21, SD 1, 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. On Stand. Com. Rep. No. 1611, I have some reservations. I'm actually in support of this bill. Originally as it had come out it was talking about procurement and rulemaking and public employment statutes for program services and benefits using funds allocated to the State by the American Recovery and Reinvestment Act of 2009. And I am in support of that part of the bill, Mr. Speaker. I think that the decision to have this money come to the states has already been made. Our kids are going to be paying for it. So we need to make sure that we use this money as best as possible.

"Taking a look at Part II, this bill established a legislative Federal Economic Stimulus Program Oversight Commission to be comprised of 11 members. Of the 11 members, 5 are non-voting members. Mr. Speaker, I guess I could be okay with this part, but in particular, President Obama and everybody else who was a part of passing this through, is specific about wanting to make sure there's a ton of transparency and accountability. The money comes down to either the counties, the State, or wherever you apply for grants and however you get this money.

"The problem that I have is, as we're moving forward, we know that this is a Recovery Act. This money is supposed to be put into the economy to

help us recover from the economic downturn. And so it needs to be done quickly. That's why we have things like procurement and the rule-making, just making it temporary, exempting these things. We need to work together. The idea of having an Oversight Committee when there's already a ton of transparency, more-so than we have in the way that we operate now. These measures are put into place so that we are accountable. Whoever receives the money is already accountable. There are a lot of things in here to prevent the misuse, I guess, of this money. There is a ton of transparency.

"I think by having another Part II Oversight Commission, I'm not sure if that would accomplish what it's intended to do. In fact, it almost seems like, because now you have the House and the Senate appointing members, the Governor is involved, but yet you also have the 4 members of Congress involved as well. It kind of gives a hint of more politicizing it, because, one of the Congressional members is running for Governor.

"So when I take a look at the whole thing, I think we can work together on this. We can work to get that money into the areas that it needs to, to help the counties and the State. We should just step back and not necessarily work in that way, and support the Governor and the counties in helping use this money effectively. 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 B. Oshiro rose to speak in support of the measure, stating:

"Mr. Speaker, I rise in support. Very briefly, you know the purpose of this bill is to basically create some kind of exemption from procurement, which immediately to me, I'm not very thrilled about. But the Administration came in and said, 'Oh, you know, procurement's really hard. It's really difficult. It's going to slow down the process,' which basically means that unfortunately, they just can't do their job and follow the Code, because it's all in there. It's about fairness, openness and transparency. And there really is no reason why there is this continual bemoaning about the Procurement Code and how it just slows down the process. There are many, many ways in which things can move through that process in an expedited fashion. Unfortunately, that's not been the experience because contracting officers unfortunately don't know how to issue solicitations.

"But given that that's how the landscape is, we are moving this bill forward. But I think the reason why we have an Oversight Committee is something that, at least a dozen states around the nation have also enacted. And what that is for, is for oversight and transparency. Because although I agree that the federal government has some very aggressive monitoring and accountability measures in the American Recovery and Reinvestment Act, we don't want them to get involved. By that point, once they start digging around and start looking at what the State may be doing wrong, at that point, we'll be in some pretty deep trouble. At that point, what they'll say is, 'You know what? If you can't handle the federal money, you don't get any more'. At that point we're shutting off the spigot. Too bad. So sorry that you don't know how to do the things you're supposed to be doing under the law.

"And that's why we need to make sure that there's proper oversight on the State level, so that we don't have to just rely on the federal government to step in. Because if they step in, let me tell you, it will not be a pretty picture. Thank you, very much."

The motion was put to vote by the Chair and carried, and S.B. No. 21, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takumi being excused.

#### **S.B. No. 971, SD 2, HD 1:**

Representative B. Oshiro moved that S.B. No. 971, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Ward: "Mr. Speaker, I rise in support of this measure."

Speaker Say: "Please proceed, and state for the record to the general public, that it's not the House. It was the Senate's bill, right?"

Representative Ward: "But we are going to vote on it no matter where it came from or wherever it goes, Mr. Speaker."

Speaker Say: "The testimony that you heard was on the Senate draft."

Representative Ward continued, stating:

"Exactly. And that's why I'm standing up, because some good things could come out of bad bills. What you are talking about came very, very unacceptably from the Senate in the form of taxing the old, the aged, the retired military, the elderly, and what pensions they have and the safe haven, if you will, that Hawaii has been and always hopefully will be.

"That, fortunately due to the wisdom of the Chair of Finance, has been extricated. And for those members on the Finance Committee who will be on the Conference Committee, please don't let the Senate put that back in there. Please don't let it happen. Let's not go there. Thank you Mr. Speaker."

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

"I must voice my reservations, and I think the Representative from Hawaii Kai said it best. Beware of what could happen in Conference Committee, because the Senate bill was not a good bill. At least we have stripped that provision to tax pensions out of this, but I'm always afraid that it may come back. Thank you."

The motion was put to vote by the Chair and carried, and S.B. No. 971, SD 2, HD 1, 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 49 ayes, with Representatives Morita and Takumi being excused.

At 3:18 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 199, SD 1, HD 1  
S.B. No. 972, SD 2, HD 1  
S.B. No. 1678, SD 3, HD 1  
S.B. No. 21, SD 1, HD 1  
S.B. No. 971, SD 2, HD 1

#### **S.B. No. 1271, SD 1, HD 1:**

Representative B. Oshiro moved that S.B. No. 1271, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker. On that bill, I would speak with reservations. I believe that the 40% attrition is kind of 'Draconian'. I think it's been mentioned in our Caucus that they could take positions, technical positions that you need. And when you look into the pool to replace that technical position, that probably will not be possible. So I would hope that the Conference Committee members can look at this again and maybe change the formula a little bit. Thank you very much."

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

"Thank you Mr. Speaker. I am against the bill. And Mr. Speaker, if I could have the remarks of the previous speaker entered into the Journal as if they were my own, and I'd just like to add one comment. This is a nut-ball way to run a government."

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

"Thank you Mr. Speaker, in opposition and I'd like to also incorporate the words of the speaker from Wailuku as my own. And also just say that it makes it very difficult to manage operations if you follow what the bill says. Thank you."

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

"Mr. Speaker, I stand in strong support. Mr. Speaker, what this bill does is mirror a prior policy that was established during Governor Cayetano's Administration. Back in 1994, we were facing a similar crisis and financial shortfall, and this is another tool that was created and put on the books for that period of time to allow the Administration to invoke an attrition policy.

"This certainly is a work in progress. There can be adjustments made to the percentages that would be retained, those that would not be retained, and the pool of employees that would be set up for the respective departments. Thank you, Mr. Speaker."

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:

"Opposition to SB 1271, SD1, HD1.

"It is detrimental to government operations given that both specialized skill and experience is needed to fill these exempt managerial positions. This is counter productive.

"Also, it is difficult to estimate the number of employees who may leave State employment between July 1, 2009 and December 31, 2010; and vacation payouts vary depending on the length of service. Uncertain what amount of savings will be realized.

"Finally, it would impact departments' ability to appropriately manage and allocate its resources in the current fiscal environment.

"The departments are already eliminating vacant positions and freezing hiring."

The motion was put to vote by the Chair and carried, and S.B. No. 1271, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEES," passed Third Reading by a vote of 39 ayes to 10 noes, with Representatives Belatti, Berg, Ching, Finnegan, Hanohano, Marumoto, Pine, Takumi, Thielen and Ward voting no, and with Representatives Morita and Takai being excused.

#### **S.B. No. 294, SD 2, HD 1:**

Representative B. Oshiro moved that S.B. No. 294, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise in support of this measure. Mr. Speaker, this is the second time today that a bad bill becomes a good bill. This bill initially decimated DBEDT, or basically pulled everything out of it, pulling its feathers out, and transferring and other things. In fact now, it's so good, it's restored and even added 7 new positions for the Hawaii Clean Energy Initiative.

"The only thing that's missing, if there's any *puka* left, is the transfer of the Tourism Liaison to the Governors Office from DBEDT without any money. So there's probably going to be a bit of a gap, but otherwise from something that was creating, 'a whole lot of shaking going on' in that Committee hearing, to now where it's calm.

"It's a great bill. It's something that I think caused a lot of consternation while it was in the process, but right now it's great. Thank you."

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

"Thank you Mr. Speaker, I'm in strong support of the renewable energy provisions in the bill, and I think that it showed great foresight. Thank you."

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

"I rise in strong support. As mentioned, one key provision in this bill is providing support for the Energy Division, which had been missing from DBEDT, and this will add that, and add the staff to move our Hawaii Clean Energy Initiative forward. So I look forward to this. Thank you."

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

"Yes Mr. Speaker, I speak in favor of this measure. I want to congratulate the Chair and the members for making the great turnaround that they did in DBEDT. Thank you very much for that. However, I wish that in the future, Mr. Speaker, whenever we attempt to reorganize any major department, we do it on a longer period of time and not just in one particular Session, as it was done this time. I know it was done with good intentions, but I think sometimes good intentions can go astray.

"Also, I wish you all good luck in working with the Senate for those items that you put in the budget. I'm keeping my fingers crossed that we can get more of them out. Thank you, very much."

The motion was put to vote by the Chair and carried, and S.B. No. 294, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE DEPARTMENTS," passed Third Reading by a vote of 48 ayes to 1 no, with Representative Berg voting no, and with Representatives Morita and Takai being excused.

#### **S.B. No. 884, SD 2, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, S.B. No. 884, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO NON-GENERAL FUNDS," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

#### **S.B. No. 638, SD 2, HD 1:**

Representative B. Oshiro moved that S.B. No. 638, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Wooley rose in support of 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:

"The first part of this bill address the long-standing lack of authority for the Department of Land and Natural Resources to enter into lease negotiations with individuals living in Kahana Valley, put a moratorium on evictions in the valley, and set forth a planning process for residents and DLNR to come up with a master plan. I support the intent of this part of the bill."

The motion was put to vote by the Chair and carried, and S.B. No. 638, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Third Reading by a vote of 49 ayes, with Representatives Morita and Takai being excused.

At 3:26 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1271, SD 1, HD 1  
S.B. No. 294, SD 2, HD 1  
S.B. No. 884, SD 2, HD 1  
S.B. No. 638, SD 2, HD 1

**ADJOURNMENT**

At 3:27 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, April 16, 2009. (Representatives Morita and Takai were excused.)