HAWAII STATE HOUSE OF REPRESENTATIVES

REGULAR SESSION OF 2011

ROUGH DRAFT JOURNAL

FORTY-SEVENTH DAY

APRIL 12, 2011

OFFICE OF THE CHIEF CLERK

All Mini and Rough Draft Journals are provided as an informational service only and are not intended to replace the permanent bound version of the House Journal which is the official certified record. The daily Mini Journals and Rough Draft Journals are subject to correction and approval, and should not be relied upon, quoted or cited as an official record.

*The **Mini Journal** is produced for each legislative day and shows all action which took place on the Chamber Floor, including all bills and resolutions introduced, referrals, readings, all motions and votes, and Governor's Messages and other Communications. The Mini Journal does not include verbatim floor remarks or announcements made.*

The Mini Journal is generally available the next legislative day following each day's session and may be obtained at the House Printshop.

*The **Rough Draft Journal** includes verbatim floor remarks, written remarks, announcements and introductions made on the Chamber Floor. Copies of the Rough Draft Journal may be obtained at the House Printshop as they become available.*

*The **Mini Journal** and **Rough Draft Journal** may also be obtained at the House of Representatives section of the legislative website. www.capitol.hawaii.gov*

*The **bound version of the House Journal** is the official certified record of the proceedings of the House of Representatives. Once certified, the official permanent record is published and bound after the close of the Regular or Special Session of the Legislature.*

FORTY-SEVENTH DAY

Tuesday, April 12, 2011

The House of Representatives of the Twenty-Sixth Legislature of the State of Hawaii, Regular Session of 2011, convened at 9:01 o'clock a.m., with the Speaker presiding, after which the Roll was called showing all Members present with the exception of Representatives Awana, Har, Herkes and Takumi.

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

GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 193 and 1107) were received and announced by the Clerk and were placed on file:

Gov. Msg. No. 193, dated April 5, 2011, in accordance with Section 9, Article VII of the Constitution of the State of Hawaii, requesting immediate consideration and passage of Senate Bill No. 1270, Relating to the Hawaii Hurricane Relief Fund, to appropriate funds from the Hawaii Hurricane Relief Fund to the general fund for the purpose of balancing the state budget.

Gov. Msg. No. 1107, informing the House that on April 08, 2011, the following bill was signed into law:

S.B. No. 123, SD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE RECORDS." (ACT 007)

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 406 through 415) were received and announced by the Clerk:

Sen. Com. No. 406, transmitting H.B. No. 112, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CABLE TELEVISION SYSTEMS," which passed Third Reading in the Senate on April 8, 2011.

Sen. Com. No. 407, transmitting H.B. No. 235, HD 2, SD 2, entitled: "A BILL FOR AN ACT RELATING TO LIMITED LIABILITY COMPANIES," which passed Third Reading in the Senate on April 8, 2011.

Sen. Com. No. 408, transmitting H.B. No. 1053, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO NATIONAL DENTAL HYGIENE EXAMINATIONS," which passed Third Reading in the Senate on April 8, 2011.

Sen. Com. No. 409, transmitting H.B. No. 1087, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," which passed Third Reading in the Senate on April 8, 2011.

Sen. Com. No. 410, transmitting H.B. No. 1622, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HISTORIC PRESERVATION," which passed Third Reading in the Senate on April 8, 2011.

Sen. Com. No. 411, transmitting S.C.R. No. 69, SD 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO REPORT ITS PROGRESS ON THE INCORPORATION OF ENVIRONMENTAL CURRICULA INTO ITS STANDARDS-BASED SYSTEM AND GENERAL LEARNER OUTCOMES," which was adopted by the Senate on April 8, 2011.

Sen. Com. No. 412, transmitting S.C.R. No. 71, SD 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE CONVENING OF A WORKING GROUP TO REVIEW THE DUTIES AND RESPONSIBILITIES OF THE AGRIBUSINESS DEVELOPMENT CORPORATION AND MAKE RECOMMENDATIONS TO IMPROVE THE CORPORATION'S EFFICIENCY AND PROGRAMS TO BETTER ADDRESS CURRENT AND FUTURE AGRICULTURAL ISSUES," which was adopted by the Senate on April 8, 2011.

Sen. Com. No. 413, transmitting S.C.R. No. 114, SD 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE UNIVERSITY OF HAWAII SYSTEM TO EXAMINE THE FEASIBILITY OF RE-ESTABLISHING THE ADVANCED CERTIFICATE IN GERONTOLOGY PROGRAM, TO CONSIDER ESTABLISHING A RESEARCH EDUCATION AND MENTORSHIP PROGRAM TO SUPPORT RESEARCH ON AGING, AND TO EXPLORE WAYS TO BUILD CAPACITY TO MEET THE AGING-RELATED WORKFORCE NEEDS OF THE STATE," which was adopted by the Senate on April 8, 2011.

Sen. Com. No. 414, transmitting S.C.R. No. 132, SD 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING AN EXPLORATORY STUDY ON HAWAII'S SUITABILITY AS A CLIMATOTHERAPY TOURISM DESTINATION FOR ATOPIC DISEASE PATIENTS FROM EAST ASIA," which was adopted by the Senate on April 8, 2011.

Sen. Com. No. 415, transmitting S.C.R. No. 146, SD 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO COMPILE AND SUMMARIZE THE RESULTS OF ALL STUDIES CONDUCTED ON WASTE REDUCTION IN HAWAII'S PUBLIC SCHOOLS AND PROPOSE STRATEGIES, GOALS, AND BENCHMARKS FOR REDUCING WASTE IN HAWAII'S PUBLIC SCHOOLS," which was adopted by the Senate on April 8, 2011.

Representative B. Oshiro moved to disagree to the amendments made by the Senate to the following House Bills, seconded by Representative Evans and carried: (Representatives Awana and Herkes were excused.)

H.B. No. 235, HD 2, (SD 2)
H.B. No. 1053, HD 1, (SD 1)

DEPARTMENTAL COMMUNICATIONS

The following departmental communication (Dept. Com. No. 84) was received by the Clerk and was placed on file:

Dept. Com. No. 84, dated April 8, 2011, from Marion M. Higa, State Auditor, Office of the Auditor, transmitting the 2010 Annual Report.

INTRODUCTIONS

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

Representative McKelvey introduced Maui County Council Chair, Danny Mateo.

ORDER OF THE DAY

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 Awana and Herkes were excused.)

CONSENT CALENDAR

UNFINISHED BUSINESS

The Chair then announced:

"Members, at this time there will be no discussion as these items have been agree upon by both the Majority and Minority Caucuses for placement on the Consent Calendar."

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1460) recommending that S.B. No. 172, 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. 172, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO FIREWORKS," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1462) recommending that S.B. No. 173, 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. 173, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO FIRE PROTECTION," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1463) recommending that S.B. No. 782, 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. 782, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DANGEROUS WEAPONS," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1464) recommending that S.B. No. 217, 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. 217, 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 in strong support of this bill which extends and tolls the statute of limitations for victims of sex abuse to initiate civil actions. This measure – while incapable of restoring the innocence lost by minors subjected to child abuse – does provide these victims an opportunity to hold perpetrators responsible civilly for their heinous actions.

"Under present statutes of limitations, many claims expire before the victims are capable of getting to court. This bill would protect the children of Hawaii by making it possible for victims to come forward and identify their perpetrators in a court of law. It would bring a measure of justice to these victims.

"Recognizing that statutes of limitations are constructed to provide fairness in legal proceedings – where memories can fade over time and where evidence and records can be difficult to locate due to the passage of years – this bill strikes a balance.

"As Professor Marci Hamilton noted in written testimony, there are three public purposes served by this bill:

1) The identification of previously unknown child predators to the public so children will not be abused in the future;

2) Giving child sex abuse survivors a day in court; and

3) Remedying the wrong done to child sex abuse survivors caused by an overly short statute of limitations that placed predators and their enablers in a preferred position to the victims.

In this circumstance, providing a retroactive window of opportunity for victims of childhood abuse is appropriate. As Professor Hamilton also notes:

"The Hawaii Supreme Court has upheld retroactive application of a newly extended statute of limitation to revive claims that previously expired. Roe v. Doe, 581 P.2d 310, 316 (Haw. 1978) (holding that "[t]he right to defeat an action by the statute of limitations has never been regarded as a fundamental or vested right . . . [W]here lapse of time has not invested a party with title to real or personal property, it does not violate due process to extend the period of limitations even after the right of action has been theretofore barred by the former statute of limitations."); Gov't Employees Ins. Co. v. Hyman, 975 P.2d 211 (Haw. 1999).

"Hawaii does provide for a two-year (2) statute of limitations for repressed memory cases, but victims typically have a difficult time dealing with such memories. Two years is a very short period of time within which to process the information, obtain the needed counseling to be ready to go to court, and then to find an attorney and proceed to the judicial process. The window would help them, as well as the vast majority of victims, who do not have repressed memories and simply could not get to court before the statute of limitations expired.

"This bill is necessary to provide justice for these victims. I urge my colleagues to vote for 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. 217, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LIMITATION OF ACTIONS," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1465) recommending that S.B. No. 1325, 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. 1325, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE REGISTRATION," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1466) recommending that S.B. No. 1349, 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. 1349, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I fully support this bill which will amend the Hawaii Nonprofit Corporation Act, Chapter 414D, Hawaii Revised Statutes, to update our law to fit modern technology and communications. This measure allows directors to receive notice of meetings by electronic transmission and to facilitate meetings through electronic technology.

"These amendments will provide clarity and flexibility to nonprofit corporations in using technology that is readily accessible today. These changes allow greater participation while reducing administrative costs."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1349, SD 1, HD 1, entitled: "A

BILL FOR AN ACT RELATING TO NONPROFIT CORPORATIONS," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1468) recommending that S.B. No. 1171, 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. 1171, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1469) recommending that S.B. No. 1174, 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. 1174, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHARTER SCHOOLS," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1470) recommending that S.B. No. 1281, SD 1, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the committee be adopted, and that S.B. No. 1281, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Johanson's written remarks are as follows:

"I rise in support of SB 1281. I am very supportive of this measure because of the regularity and structure it can provide for public school administrators. I have heard from numerous principals that it is often difficult to engage in the financial planning process for their school when they are unsure as to what the Committee on Weights will decide on the actual value of the weighted student formula. By making the meetings biennial, administrators can more expediently and efficiently craft their financial plan."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1281, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1471) recommending that S.B. No. 1282, 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. 1282, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1474) recommending that S.B. No. 81, 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. 81, HD 2, entitled: "A BILL FOR AN ACT RELATING TO STARLIGHT RESERVE," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1476) recommending that S.B. No. 758, 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. 758, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SMALL BUSINESS," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1479) recommending that S.B. No. 142, 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. 142, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Hanohano's written remarks are as follows:

"Mr. Speaker, I rise in support with reservations. This measure relates to dams and reservoirs. This bill was not referred to the Committee on Hawaiian Affairs which is tasked to examine water issues in the State of Hawaii."

Representative Tsuji's written remarks are as follows:

"This bill protects Hawaii's water resources by establishing safeguards and mechanisms to preserve and maintain the State's dams and reservoirs.

"It specifically directs the BLNR to consider dams and reservoirs to be vital water resources for the State. It will also enable the BLNR to better understand and more strongly consider the importance of dams and reservoirs to the State in connection with the administration of the dam and reservoir safety program in DLNR.

"Agriculture is critical to Hawaii's food security and sustainability. Agriculture ventures need water. Our State is currently experiencing drought, and water storage facilities are essential infrastructure components to irrigation systems and safeguard against below average rainfall.

"The unsustainable costs for land owners and agricultural stakeholders incurred by the safety program are a serious concern. Overly burdensome regulations relating to dams and reservoirs maintenance and operation would be counterproductive to the long-term objective of preserving these facilities as valuable water resources.

"This proposed measure moves towards equitable and appropriate shared costs between private and public interests for the administration of dam and reservoir safety."

Representative Nakashima's written remarks are as follows:

"SB No. 142 requires BLNR to consider dams and reservoirs as important water resources for the State and acknowledge the need to maintain and operate them in a safe and feasible manner. Since the Koloko Dam incident on Kauai, State regulators have taken action that set unreasonable standards for agricultural reservoirs and threaten to undermine the State's goal for agricultural sustainability and security. This bill will reassert State policy to treat these reservoirs as important agricultural infrastructure and urge prudent action to balance the need for agricultural sustainability with public safety."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 142, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DAMS AND RESERVOIRS," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1481) recommending that S.B. No. 1311, 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. 1311, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Hanohano's written remarks are as follows:

"Mr. Speaker, I rise in support with reservations. This measure authorizes the Department of Land and Natural Resources to collect fees to cover the technical assistance program costs associated with habitat conservation plans, and adopt rules for establishing the fees. This bill was not referred to the Committee on Hawaiian Affairs which is tasked to examine public land trust which may include classified conservation lands."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1311, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FEES FOR HABITAT CONSERVATION PLANS," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1482) recommending that S.B. No. 1530, 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. 1530, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Hanohano's written remarks are as follows:

"Mr. Speaker, I rise in support with reservations. This measure relates to public lands. This bill was not referred to the Committee on Hawaiian Affairs which is tasked to examine public lands."

Representative Jordan's written remarks are as follows:

"I stand with reservations to SB1530, SD1, HD2, relating to the extension of public land leases for the purpose of improving Banyan Drive on the Island of Hawai'i. The problem with this bill is that it extends the lease period for the use of public lands to 55 years. This lease provides security for business owners who will theoretically use that security to invest in their properties. However, it neglects the public's interest to ensure State land is leased through public auction and fair procedures. The long lease term also restricts the lease values through time, limiting State revenues and making it difficult to keep up with market rents. Having incremental increases in lease terms would be in the State's best interest as it would allow the State to generate revenue and ensure that properties are maintained and yielding the greatest return."

Representative Nakashima's written remarks are as follows:

"Mr. Speaker, Senate Bill 1530 authorizes the Board of Land and Natural Resources to extend leases of public lands for hotel, resort, commercial, and industrial use upon approval of a proposed development agreement to make substantial improvements to the premises. This will add an additional dimension to State leases that would allow businesses an incentive to work to improve their State leasehold property that would insure continued viability of their business while maintaining and improving the value of the State's leasehold land."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1530, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1483) recommending that S.B. No. 675, 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. 675, SD 1, entitled: "A BILL FOR AN ACT RELATING TO STUDENT LOAN FUNDS," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1484) recommending that S.B. No. 1382, 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. 1382, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1485) recommending that S.B. No. 1386, 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. 1386, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF REGENTS OF THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1487) recommending that S.B. No. 1331, 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. 1331, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1490) recommending that S.B. No. 283, 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. 283, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SUSTAINABILITY," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 1492) recommending that S.B. No. 181, 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. 181, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PHOTOVOLTAIC-READY NEW RESIDENTIAL HOMES," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1499) recommending that S.B. No. 11, 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. 11, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF THE SHERIFF," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1500) recommending that S.B. No. 45, 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. 45, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1501) recommending that S.B. No. 742, 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. 742, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE FIRE COUNCIL," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1502) recommending that S.B. No. 44, 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. 44, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1506) recommending that S.B. No. 1278, 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. 1278, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Johanson's written remarks are as follows:

"I stand in support of SB 1278. I particularly appreciate the emphasis on protecting our seniors from the ever-increasing occurrences of identity theft and fraud.

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1278, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1507) recommending that S.B. No. 1519, SD 3, 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. 1519, SD 3, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE LOAN ORIGINATORS," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1512) recommending that S.B. No. 1277, 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. 1277, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CONSUMER PROTECTION," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1515) recommending that S.B. No. 285, 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. 285, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Hanohano's written remarks are as follows:

"Mr. Speaker, I rise in support in reservations. This measure provides for telehealth service coverage for Medicaid and QUEST patients through an eligible mobile health van operated by a qualified provider. This bill needs to be implemented on July 1, 2011 and not on July 1, 2050. Hawaii Island needs this mobile medical van to assist QUEST and Medicaid members in remote areas."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 285, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1516) recommending that S.B. No. 893, SD 3, 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. 893, SD 3, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INFORMATION ACCESS," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1519) recommending that S.B. No. 289, 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. 289, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1527) recommending that S.B. No. 165, 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. 165, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AEROSPACE DEVELOPMENT," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1530) recommending that S.B. No. 1292, 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. 1292, HD 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HUMAN SERVICES FOR HEALTH CARE PAYMENTS," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1532) recommending that S.B. No. 1291, SD 2, 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. 1291, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CHILD PROTECTIVE ACT COURT PROCEEDINGS," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1533) recommending that S.B. No. 1293, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 1293, HD 2, entitled: "A BILL FOR AN ACT MAKING EMERGENCY APPROPRIATIONS FOR THE DEPARTMENT OF HUMAN SERVICES," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1534) recommending that S.B. No. 921, 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. 921, SD 2, HD 3, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I stand in strong support of this bill which provides for the safety of the State's youth-at-risk by providing a process for certain child service providers to provide emergency shelter and related services to minors at no cost under certain conditions. It fills a gap in the safety net needed to care for Hawaii's young people by allowing providers to refer youth in need to shelter and related services.

"Children at risk are entitled to the rights and social benefits as other citizens and should not be denied necessary services and forced onto the streets. This bill allows minors a limited authority to provide informed consent to enter emergency shelters and access services without the consent of parents or guardians. The balance struck in this bill protects child service providers while respecting the role of adults in the lives of these at-risk youth.

"This is a step forward towards ensuring that Hawaii's youth population receives the care and services needed to stay safe and go on to build productive and healthy lives. I urge my colleagues to support 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. 921, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO MINORS," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1542) recommending that S.B. No. 596, SD 2, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the committee be adopted, and that S.B. No. 596, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Nakashima's written remarks are as follows:

"Senate Bill 596 appropriates funds to increase access by medically underserved resident populations to culturally appropriate primary health care services by supporting the development of the rural health workforce for the Hilo Medical Center, by implementing and sustaining the rural interdisciplinary residency program.

"The Legislature has continued to provide support for this initiative that would address the growing shortage in medical professionals especially in rural and geographically isolated areas in the State. This is done by encouraging medical doctors to participate in rural residency programs which have shown to have lead to medical practice where medical doctors they have established ties to the community while in residence programs. Unfortunately, funds appropriated by the Legislature were not released by the previous Administration and the program has had to rely on community donations and support. This measure serves as another attempt by this Legislature to establish this program in Hawaii for the benefit of Hawaii's future."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 596, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAII HEALTH CORPS," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1548) recommending that S.B. No. 1221, 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. 1221, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1550) recommending that S.B. No. 1065, 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. 1065, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1552) recommending that S.B. No. 1089, 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. 1089, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO DISLOCATED WORKERS," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1553) recommending that S.B. No. 281, 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. 281, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Tsuji's written remarks are as follows:

"This bill would amend the current statute to allow the animal quarantine property or facilities to be used commercially.

"The Department of Agriculture supports this bill as it favors the general commercial use of the animal quarantine property to supplement the Division's general fund appropriation. DOA is looking for ways to become more self-sufficient and this measure allows the Department to create an important revenue source from a currently underutilized 5-and-a-half acre parcel at the animal quarantine station. Funds generated under this bill will help to alleviate urgent financial need by supplementing animal industry and DOA programs and - most importantly - restoring essential positions lost in the 2009 reduction-in-force."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 281, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ANIMAL INDUSTRY," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1555) recommending that S.B. No. 145, 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. 145, 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 in support of this bill. The purpose of this measure is to allow the Director of Finance to appropriate funds in order to improve various irrigation systems.

"Survival of agriculture requires reasonably priced land and reliable water supply.

"Our State's irrigation systems are often plantation area ditch systems that were constructed and maintained for our shrinking agribusinesses. These water systems – employing gravity and other engineering designs that make water delivery cheaper than energy reliant systems – remain

crucial to sustaining our farming regions. Many are over 100 years old. Providing these funds for improvements, repair, and maintenance ensures Hawaii's farmers will have some opportunity to meet Hawaii's food sustainability goals.

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

Representative Hanohano's written remarks are as follows:

"Mr. Speaker, I rise in support with reservations. This measure provides additional funding needed for improvements to irrigation systems throughout the State using general obligation bonds. This bill was not referred to the Committee on Hawaiian Affairs which is tasked to examine issues concerning water. The Moloka'i irrigation system was built for the Hawaiian homesteaders on Moloka'i.

Representative Tsuji's written remarks are as follows:

"This bill appropriates funds for various irrigation systems which provide an essential resource to farming.

"The systems listed in this bill provide reliable irrigation water to over 22,000 acres of farm land. Some of these systems are over 100 years old and direly need significant improvements to reduce water losses and maintenance costs. Funding is necessary to help extend the life of these systems and to fortify Hawaii's agriculture industry. Any disruption in water delivery to farmers could severely impact their viability as demonstrated after the 2006 earthquake on the Big Island.

"A systematic process to repair, maintain and build irrigation systems is critical as agriculture seeks to expand despite Hawaii's long standing drought conditions. Agricultural stakeholders feel this bill will greatly assist them by providing funding necessary to conduct preventative maintenance and make infrastructure and other improvements to irrigation systems for the sustainability of agriculture. These are valuable investments in the food, feed and fuel needs for Hawaii's current and future generations. If the state is committed to food and fuel security, there must be a continued commitment to water delivery infrastructure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 145, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO IRRIGATION," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1557) recommending that S.B. No. 1153, 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. 1153, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I rise in support of this bill. The purpose of this measure is to make it easier for new farmers and ranchers to obtain loans. Our State Constitution makes preservation of agriculture as a major goal of our land use policies. Additionally, our State has a practical need to preserve and maintain agricultural lands which is reflected in our plans to foster food security by being less dependent on crops grown elsewhere for our island food supply.

"If we don't offer the means for these farmers and ranchers to remain in cultivation, we harm our ability to protect our productive agricultural lands and surrender our food security to outside forces. This investment in Hawaii's farmers is a good use of our resources.

"As I said before, the State of Hawaii is furthering its goal to become more sustainable, and making these loans available to new farmers and ranchers fosters this goal. I urge my colleagues to vote in favor of this bill."

Representative Tsuji's written remarks are as follows:

"This is similar to a House Bill passed in early March. SB 1153 would provide affordable access to loans for new farmers by enhancing the New Farmer Program.

"Among other things, the measure raises the ceiling on program loans from $100,000 to $250,000. This has not been increased since the establishment of the program in 1972, despite ever-rising capital requirements. Noting this disparity, the Department of Agriculture testified in support of this proposed increase.

"The Farm Bureau also stated its strong support of the measure as it directly aids new farmers. In general, commercial lenders are reluctant to fund start-up operations because new farmers and ranchers often do not have significant collateral. This problem is compounded by banks' decrease use of ag loan officers.

"SB 1153 address these issues by increasing the availability of affordable credit- a critical step if we are committed to encouraging new farming ventures and meeting Hawaii's sustainability goals in food production."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1153, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL LOANS," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1559) recommending that S.B. No. 1247, 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. 1247, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Hanohano's written remarks are as follows:

"Mr. Speaker, I rise in support with reservations. This measure abolishes the Aloha Tower Development Corporation (ATDC) and transfers the ATDC assets to the Hawai'i Community Development Authority (HCDA). This bill was not referred to the Committee on Hawaiian Affairs which examines public lands.

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1247, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE ALOHA TOWER DEVELOPMENT CORPORATION," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1573) recommending that S.B. No. 1394, 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. 1394, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAII PUBLIC HOUSING AUTHORITY," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1576) recommending that S.B. No. 52, 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. 52, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REGISTRATION OF SEX OFFENDERS," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1577) recommending that S.B. No. 1491, 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. 1491, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DISTRICT COURTS," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1578) recommending that S.B. No. 155, 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. 155, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ATHLETIC TRAINERS," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1581) recommending that S.B. No. 698, 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. 698, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ROADWAY MATERIALS," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1590) recommending that S.B. No. 243, 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. 243, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE WESTERN INTERSTATE COMMISSION FOR HIGHER EDUCATION," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1592) recommending that S.B. No. 23, 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. 23, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Hanohano's written remarks are as follows:

"Mr. Speaker, I rise in strong support for the Aha Kiole Advisory Council. The Legislature passed Act 212, Session Laws of Hawaii 2007, which created the Aha Kiole Advisory Committee (AKAC) to initiate a process to create a system of best practices that is based upon the indigenous resource management practice of *moku* (regional) boundary management. The AKAC fulfilled their mandate by submitting annual reports to the Legislature and consulting with Native Hawaiian Communities and the general public in the 43 *moku* in the State including fishermen, farmers, environmentalists, educators, organizations, and agencies through six statewide public conferences, island conferences held on every island, and many public *moku* and *ahupua'a* meetings convened from 2007 through 2010. Gathering and organizing the meetings and *moku* is a daunting task, but it has been accomplished through unity among the islands and an enduring need of all citizens to protect their environment. This can best be achieved by learning, integrating and incorporating the generational knowledge of the indigenous people of Hawaii into current resource policy through the Aha Moku System.

"The purpose of these public community consultation meetings was to fulfill the mandate of Act 212 and to contribute and integrate traditional and generational knowledge that is site specific into current resource management policy so that the environment and ecosystem can be strengthened, sustained and protected. The foundation of this entire effort is to protect and sustain the resource. The strength of this is in the empowerment of the citizens of specific districts to have a voice in the protection of these very districts. This is achieved through the Aha Kiole Council (AKC) which has no authority except that of a pass-through between agencies and the people.

"The general public has embraced this concept and became part of it. The Aha Moku System encourages all stakeholders in Hawai'i ecosystem and natural assets to be a part of this.

"Because this a community consultation process, it is important to know that the foundation of the Aha Moku System is in the *ahupua'a* and the communities that live within as this is a site specific process because natural resources differ island to island, district to district. And, while this is a Hawaiian term for a grass roots natural resource initiative, it is open to everyone."

Representative Jordan's written remarks are as follows:

"I have reservations on SB23, HD2. While I support empowering Native Hawaiians to participate in management of Hawaii's natural, cultural, and historical resources, I have concerns about the exclusion of community practitioners in better resource management decisions. I am also concerned with the testimony submitted by a private individual indicating that the, "role of the Aha Kiole changed" and therefore this private individual believes that, "these changes should be further discussed among all stakeholders." It is also important to note that OHA's testimony emphasizes OHA's support for "an open and fair selection process for the proposed eight-member 'Aha Kiole Council and believes that a transparent and inclusive selection process would strengthen the council and any actions it may undertake."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 23, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO NATIVE HAWAIIANS," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

THIRD READING

S.B. No. 1068, SD 1, HD 1:

Representative B. Oshiro moved that S.B. No. 1068, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

"Thank you, Mr. Speaker. I rise in support of this bill. Voting for this measure adds the torturing or killing of any pet animal belonging to another person without the consent of the pet owner to our animal cruelty criminal law in Hawaii Revised Statues, Section 711-1108.5.

"This bill recognizes the important bond between humans and their pets and balances that interest in owners protecting their pets from harm with appropriate choice of evils exceptions. The exceptions included in this bill will prevent any unintended consequences -- residents will still be able to protect themselves as allowed in our current statutes and common law from animal attacks against themselves or their own pets.

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

The motion was put to vote by the Chair and carried, and S.B. No. 1068, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ANIMAL CRUELTY," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

S.B. No. 946, SD 1, HD 1:

Representative B. Oshiro moved that S.B. No. 946, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I rise in support of this bill which provides some additional guidance to our court system in applying its discretionary authority in difficult and sensitive circumstances involving domestic violence victims. The purpose of this measure is to allow a motion,

complaint or document to be filed that identifies a person or party as "Jane Doe" or "John Doe" in order to protect the privacy of domestic violence victims.

"This bill outlines for the court some of the relevant criteria – followed in other jurisdictions and the federal courts – to consider in balancing the interest of the public in open court proceedings and the privacy and safety concerns of the parties to the proceeding. Clearly, victims of battery or ongoing harassment may be reluctant to pursue civil actions against those victimizing them when the usual course of filing a complaint under their full name subjects them to further stigmatization and trauma. Sealing the court records from the start may be the most appropriate use of judicial discretion and this bill will assist the court in its use of that wide authority and to fashion appropriate conditions in fashioning orders to seal records.

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

The motion was put to vote by the Chair and carried, and S.B. No. 946, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

S.B. No. 1318, SD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, S.B. No. 1318, SD 1, entitled: "A BILL FOR AN ACT RELATING TO USE TAX," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

S.B. No. 163, SD 1, HD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, S.B. No. 163, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

S.B. No. 233, SD 2, HD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, S.B. No. 233, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOBACCO PRODUCTS," passed Third Reading by a vote of 50 ayes, with Representative Awana being excused.

At 9:06 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 172, SD 2, HD 2
S.B. No. 173, SD 2, HD 2
S.B. No. 782, SD 2, HD 1
S.B. No. 217, SD 2, HD 2
S.B. No. 1325, SD 1, HD 1
S.B. No. 1349, SD 1, HD 1
S.B. No. 1171
S.B. No. 1174, SD 2, HD 1
S.B. No. 1281, SD 1, HD 1
S.B. No. 1282, SD 1, HD 1
S.B. No. 81, HD 2
S.B. No. 758, SD 1, HD 2
S.B. No. 142, SD 1, HD 1
S.B. No. 1311, SD 2, HD 1
S.B. No. 1530, SD 1, HD 2
S.B. No. 675, SD 1
S.B. No. 1382, SD 2, HD 1
S.B. No. 1386, SD 1, HD 1
S.B. No. 1331, SD 2, HD 2
S.B. No. 283, SD 1, HD 1
S.B. No. 181, SD 1, HD 1
S.B. No. 11, SD 2, HD 2
S.B. No. 45, HD 1
S.B. No. 742, SD 2, HD 1
S.B. No. 44, SD 1, HD 1
S.B. No. 1278, SD 1, HD 2
S.B. No. 1519, SD 3, HD 2
S.B. No. 1277, SD 2, HD 2
S.B. No. 285, SD 2, HD 2
S.B. No. 893, SD 3, HD 2
S.B. No. 289, SD 2, HD 1
S.B. No. 165, SD 2, HD 1
S.B. No. 1292, HD 1
S.B. No. 1291, SD 2, HD 2
S.B. No. 1293, HD 2
S.B. No. 921, SD 2, HD 3
S.B. No. 596, SD 2, HD 1
S.B. No. 1221, SD 2, HD 1
S.B. No. 1065, SD 1, HD 1
S.B. No. 1089, SD 1, HD 2
S.B. No. 281, SD 2, HD 2
S.B. No. 145, SD 2, HD 2
S.B. No. 1153, SD 1, HD 2
S.B. No. 1247, SD 2, HD 2
S.B. No. 1394, SD 1, HD 1
S.B. No. 52, SD 1, HD 1
S.B. No. 1491, SD 1, HD 1
S.B. No. 155, SD 2, HD 1
S.B. No. 698, SD 2, HD 1
S.B. No. 243, SD 2, HD 1
S.B. No. 23, SD 1, HD 2
S.B. No. 1068, SD 1, HD 1
S.B. No. 946, SD 1, HD 1
S.B. No. 1318, SD 1
S.B. No. 163, SD 1, HD 1
S.B. No. 233, SD 2, HD 1

The Chair then announced:

"Members, please remember to submit to the Clerk your list of Senate Bills on the Consent Calendar for which you will be submitting written remarks for, in support or in opposition. This must be done before the end of today's Floor session which I am anticipating to be around 4:00 p.m."

At 9:07 o'clock a.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 9:29 o'clock a.m.

At this time, the Chair announced that certain measures would be taken out of order.

ORDINARY CALENDAR

UNFINISHED BUSINESS

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1498) recommending that S.B. No. 1079, 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. 1079, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

At this time, Representative Fontaine offered Floor Amendment No. 6, amending S.B. No. 1079, SD 2, HD 2, as follows:

"SECTION 1. Senate Bill No. 1079, Senate Draft 2, House Draft 2, is amended by deleting its contents, and replacing it with the following text, to read as follows:

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Chapter 663, Hawaii Revised Statutes is amended by adding a new section to be appropriately designated and to read as follows:

"§663- Trespass; agricultural land; range land; limited duty of care and liability of owner. (a) An owner of agricultural or range land owes no duty of care to a trespasser for injury, property damage, or death of the trespasser that occurs on agricultural or range land, or to warn a trespasser of dangerous natural conditions or range activities or uses; provided that the agricultural or range land:

(1) Is fenced, enclosed, or secured in a manner designed to exclude the general public, or marked by a structure or barrier, such as a cattle grid, cattle grate, or other obstacle used to secure livestock;

(2) Is fenced, enclosed, or secured in a manner designed to exclude the general public, or marked by a structure or barrier that identifies it as agricultural or range land; or

(3) Has at least one sign displayed on the agricultural or range land that is sufficient to give notice and reads: "No Trespassing" or a substantially similar message. The sign shall contain letters not less than two inches in height and shall be placed along the boundary line of the agricultural or range land in a manner and position that is clearly noticeable from outside the boundary line. Where an owner knows or should reasonably anticipate the presence of trespassers in an area or areas of agricultural or range land, a sign or signs sufficient to give notice shall be placed at the area or areas.

(b) Nothing in this section shall limit the liability of a agricultural or range land owner whose acts are grossly negligent or in willful or wanton disregard of the safety of a trespasser, or who intentionally causes injury, property damage, or death to a trespasser. This section shall not apply to minor children twelve years of age or younger where the owner knows of or should reasonably anticipate the presence of the children on the agricultural or range land.

(c) The duty of care of an owner of agricultural or range land who allows recreational use of agricultural or range land shall be as provided in section 520-3.

(d) As used in this section:

"Agricultural land" means any land exceeding four acres that is used primarily for agricultural purposes, including general farming, cane growing, fruit growing, flower growing, grazing, dairying, and the production of any form of livestock or poultry. Agricultural land includes land required for adequate farm dwellings and other essential farm buildings, roads, and adjacent lands under the control of an owner.

"Owner" means the person who holds title to or is in lawful possession of the range land.

"Range land" means any land exceeding four acres that is used primarily for range use, including livestock grazing, dairying, or keeping of equine, bovine, and similar livestock, such as cattle, horses, sheep, and goats. Range land includes appurtenant roadways, waterways, buildings, structures, and machinery or equipment attached to the land that is used in connection with range land activities. Range land in rural areas may include multiple parcels of less than four acres in size that together exceed four acres in the aggregate, when operated as a single venture.

"Trespasser" means a person who enters or remains unlawfully on the agricultural or range land without the permission of the owner."

SECTION 2. The Hawaii Farm Bureau Federation shall submit a report to the legislature no later than twenty days prior to the convening of the regular session of 2013 regarding the number of personal injury claims brought by or on behalf of trespassers against owners of agricultural or range land.

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect on January 1, 2012, and shall be repealed on December 31, 2017."

Representative Fontaine moved that Floor Amendment No. 6 be adopted, seconded by Representative Thielen.

Representative Fontaine rose to speak in support of the proposed floor amendment, stating:

"Yes, Mr. Speaker. The floor amendment helps protect more of our ag lands than just the ranchers. The farmers, as well as the ranchers need protection from liabilities from trespassers. This bill is extremely important to farmers and ranchers all over the islands. And although they may not realize it, everyone in Hawaii is affected by the concerns that this bill will address.

"Trespass, theft, vandalism, and liability are constant threats to Hawaii's farmers and ranchers. Every year, millions of dollars in losses are incurred as a result of agricultural trespass and the theft of crop, livestock, machinery, equipment and supplies. It is estimated that almost 10% of the net farm income is lost to trespassing thieves and vandals. Farming and ranching are inherently risky. They deal with droughts, floods, bugs, disease, market price, import competition, and transportation costs which determine success or failure of our farms.

"Trespassing vandals and thieves, and the liability for their injury should not be part of the equation, Mr. Speaker. They cannot afford to lose everything they worked so hard for to create all because of somebody trespassing on their lands. There are certainly no benefit provided to the rancher or farmer for these trespassers or their activities and therefore, they should be afforded the minimum duty of care owed to them. Thank you, Mr. Speaker."

Representative Thielen rose to speak in support of the proposed floor amendment, stating:

"Thank you, Mr. Speaker. I'm rising in strong support of the amendment to protect our farmers. Thank you. Mr. Speaker. The bill as drafted now only protects ranchers with a certain amount of acreage. And the ones that are left without any protection are the farmers who do so much to help our economy, to help put food on our tables, and take such pains to make sure that we can truly eat local from locally-produced crops. We aren't protecting them with this bill.

"I'd like to read a few sentences from the Hawaii Farm Bureau testimony. The Farm Bureau and many others have testified at every trespass bill hearing this Session to explain how ranches and farms across Hawaii are being used without permission from owners for hunting, hiking, dirt biking, and worse, illegal activities. Hard-earned crops are stolen. Livestock is in danger by cut fences and broken gates. And valuable land is used as a rubbish dump, or a place to abuse alcohol and drugs and to commit other crimes. The police departments do not have the resources to address the problem. Recent agricultural trespass and thefts highlight the need for stricter laws and better protection from trespassers who have no respect for the work that farmers do and the benefits that they provide the public.

"And one other statement from the Hawaii Farm Bureau. Trespassing vandals and thieves, and the liability for their injuries should not be part of the equation. Individuals who trespass, hurt themselves and then sue for their injuries should not be rewarded. Farmers cannot afford to lose everything they worked so hard to create in litigation due to trespass. There is certainly no benefit provided to the farmer or rancher from these trespassers or their activities, and there should only be a minimal duty of care owed to them.

"Mr. Speaker, I believe that this Body should stand up for the farmers in our State. And when we pass this amendment we will show that we do want to protect them. Thank you."

Representative Herkes rose to speak in opposition to the proposed floor amendment, stating:

"Thank you, Mr. Speaker. In opposition. Mr. Speaker and Members, the term, 'agricultural land' is far too broad. I have 400,000 acres of quote, 'ag land' in my district. The entire Volcano community is ag land. All of those single-family homes. There's no ag there. The Oceanview community has 5,000 people. That's all ag land. They don't grow anything. It's far too broad and I oppose this."

Representative B. Oshiro rose to speak in opposition to the proposed floor amendment, stating:

"Mr. Speaker, I rise in opposition. I will try to be very brief. I think that we all here in this Body want to support our farmers. We want to support agriculture as an industry. However, I think the problem with the bill as it's currently drafted, and as mentioned by the CPC Chair, it is way too broad.

"Specifically if you look at the floor amendment, page 3, lines number 11 through 17, there is a definition as to agricultural land. And so if we use that definition of agricultural land, because it's not actually referring to anything in our current law, we will need to go to our current law to find out what are permissible uses on agricultural lands. To do so, I would say we have to look at HRS 205-4.5, permissible uses within the agricultural land districts.

"And specifically what raises my concern is subsection 6. This is permissible activities on agricultural land which is public and private open area types of recreational uses including day camps, picnic grounds, parks, and riding stables, but not including drag strips, airports, drive-in theaters, golf courses, golf driving ranges, country clubs, and overnight camps. It also includes in subsection 7, public, private, and quasi-public utility lines, roadways, transformer stations, communications equipment, buildings, solid waste transfer stations, major water storage tanks.

"So the problem I think, with this current draft is it says, 'agricultural lands,' and it tries to limit what types of uses and activities, but it uses the word, 'including general farming, cane growing,' and it goes on and on. However, under our statutory construction, 'including' is not an exhaustive list. It doesn't mean it's an exclusive or limited list and therefore, it just means including, but not limited to all of these activities.

"So the problem is, once you don't define it properly as stated by the CPC Chair, you've broadened it to any type of agricultural activities. I would strongly recommend people look at the existing allowable uses under section 205-4.5 because I only read two subsections, and there are 14 or 16 different subsections on allowable uses. That is a problem with this current bill.

"I think we need to support this as it continues to move through the process. I think the Chairs in Conference are more than willing to take a look at ways in which we can protect and make sure that we enhance our agricultural industry, but unfortunately, this floor amendment is fatally flawed and therefore, I recommend people vote it down."

Representative Thielen rose to respond, stating:

"Thank you, Mr. Speaker. The Majority Leader spoke like a true attorney. I would direct the Majority Leader to line 12 on page 3. There is language defining agricultural land that is used primarily for agricultural purposes. The Conference Committees can tighten up the language. The point is, as the House of Representatives, do we want to show that we want to protect farmers? And if so, we will pass this amendment. Thank you."

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

"Thank you very much, Mr. Speaker. May I have a ruling on a potential conflict? I live on land that is zoned agricultural," and the Chair ruled, "no conflict."

Representative McKelvey continued in opposition to the proposed floor amendment, stating:

Thank you, very much. I stand in opposition to the floor amendment for the very same reasons that were stated by the speaker Ka'u. While well-intentioned, I actually do ideologically support the intent of what is trying to be done in the Floor Amendment. But as the good speaker from the Big Island noted, it's far too overreaching and very broad.

"Is this going to include areas where land is zoned agricultural, but people living there are primarily residential? Is it going to include lands that are classified as Soil Classification D, E, and F on which no agricultural activity can even take place? On which there's only renewable energy or basically nothing going on.

"And so what I'd like to ask Members to do is, while well-intentioned, is let's just go ahead move the underlying bill to Conference so we can work with the Farm Bureau and we can come up with language so that the farmers who are working the lands, are protected from frivolous lawsuits from trespassers. Theft is addressed in another bill, Mr. Speaker. So that we can come up with something that will truly reach the lofty goals that are being embodied, which is protection of the working farmers here in Hawaii. Thank you, very much."

Representative Pine rose, stating:

"Yes, just for the edification of the Body, since people are just reading partial words in the amendment, I'll read the whole part that explains very clearly what the intent of this amendment is, and what the intent is meant for the words, 'agricultural land.' It specifically states, word for word, 'agricultural land means any land exceeding four acres that is used primarily for agricultural purposes including general farming, cane growing, fruit growing, flower growing, grazing, dairying, and the production of any form of livestock or poultry. Agricultural land includes land required for adequate farm dwellings and other essential farm buildings and adjacent lands under the control of an owner.'

"So it does not include race tracks, parks, streets, roads that are public use. So please do not further mislead what this very kind amendment states. It's very clear to me, word for word, what its intention is."

Representative Herkes rose to respond, stating:

"Thank you. Still in opposition. When the previous speaker talked about poultry, that will include all the people in my district that raise fighting chickens."

Representative B. Oshiro rose to respond, stating:

"I'll be very brief. Unfortunately, intent cannot be read into the law. All we have is the actual language, and the actual language is flawed because as I pointed out, under statutory construction, including, even if you insert 'primarily,' it doesn't mean that it excludes all of those other uses because it is an allowable use on an agricultural district. Our laws define those allowable uses, so if it's primarily used as a drag strip, that's primarily agricultural use on an agricultural lands. So for those reasons I would suggest that people stop arguing about what is the intent or not. Do our job. Read the bills. Learn how to draft bills so that they are properly constructed, and therefore we can take up things as they are meant to be."

Representative Pine rose to respond, stating:

"Mr. Speaker, with all due respect to the previous speaker, I take great umbrage in what he is implying. If this becomes law, it will be law. It's not primarily or implied. That's just false, Mr. Speaker. This will become law where it specifically states what agricultural land means. My intelligence is insulted."

The Chair addressed Representative Pine, stating:

"Representative Pine, you are out of order. Please proceed with your comments in regards to the floor amendment that is before us."

Representative Pine continued, stating:

"Well, as I stated, Mr. Speaker, if this amendment passes into law, it will specifically say this, and not be implied or perceived. It will be very strict in what it's meanings and intentions is."

The motion that Floor Amendment No. 6, amending S.B. No. 1079, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LANDOWNER LIABILITY," be adopted, was put to vote by the Chair and upon a voice vote, failed to carry, with Representatives Herkes, McKelvey and B. Oshiro voting no.

(Main Motion)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1079, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LANDOWNER LIABILITY," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Fontaine and Pine voting no.

At 9:44 o'clock a.m., the Chair noted that the following bill passed Third Reading:

S.B. No. 1079, SD 2, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1504) recommending that S.B. No. 1358, 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. 1358, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

At this time, Representative Ward offered Floor Amendment No. 7, amending S.B. No. 1358, SD 2, HD 2, as follows:

"SECTION 1. Senate Bill 1358, Senate Draft 2, House Draft 2, is amended by amending Section 1, to read as follows:

"SECTION 1. The Kulani correctional facility closed on November 20, 2009, and the facility was transferred to the state department of defense. The incarcerated population of approximately one hundred twenty at the Kulani correctional facility was transferred to the Halawa correctional facility, to the federal detention center in Honolulu, and to mainland prisons. The Kulani correctional facility specialized in providing sex offender treatment, which the department of public safety describes as being one of the most successful programs in the country.

The legislature finds that Hawaii's incarcerated persons who serve their incarceration sentence in Hawaii have more potential for rehabilitation when they can live in familiar surroundings and be close to relatives. The legislature further finds that the sex offender treatment services that were provided at the Kulani correctional facility were among the finest in the country. The legislature further finds that consideration of the State's financial costs of incarceration on the mainland, rather than incarceration in Hawaii, is outweighed by the rehabilitation success of persons incarcerated in Hawaii. Successful rehabilitation eventually results in lower recidivism and lower costs.

The legislature further finds that the state department of defense opened a second National Guard Youth Challenge Academy in the fourth quarter of 2010, which is providing housing and education to over one hundred "at-risk youth" in buildings at the former Kulani correctional facility, that once held inmates of the department of public safety.

The purpose of this Act is to require the department of public safety to make plans to reopen the Kulani correctional facility."

SECTION 2. Senate Bill 1358, Senate Draft 2, House Draft 2, is further amended by amending Section 2, to read as follows:

"SECTION 2. (a) No later than December 31, 2011, the department of public safety shall:

(1) Formulate a plan to reopen the Kulani correctional facility;

(2) Include in that plan an implementation process to transfer incarcerated persons back to and house new inmates at the Kulani correctional facility; and

(3) As part of that plan, find an alternate location for the Hawaii Army National Guard Youth Challenge Academy, which is currently housed at Kulani; provided that the alternate location should be approximately equal in size, possess comparable types of facilities, and equipment of the current Kulani site, and cost not more to operate than the existing National Guard Youth Challenge Academy.

(b) The department of public safety shall not reopen the Kulani correctional facility until the Hawaii Army National Guard Youth Challenge Academy is relocated at the alternate location.

(c) The emphasis of the reopened Kulani correctional facility shall be on providing sex offender treatment rehabilitation services.

(d) The department of public safety shall cooperate with the state department of defense to transfer the Kulani correctional facility back to the department of public safety. In addition, the department of public safety shall staff the Kulani correctional facility upon its reopening with former employees of the Kulani correctional facility in the positions they held prior to the closing of the facility and, with the exception of those who wish to remain in a different location, bring back any and all employees who may have been bumped, terminated, or accepted employment in a new geographical location, regardless of any agreements made between the employee and the employer regarding transferring back to their original workplace. These positions shall be offered first to former employees of the Kulani correctional facility and Hawaii community correctional center before allowing any other transfers from employees who were not affected or employed by Kulani correctional facility or Hawaii community correctional center at the time of the closing.

(e) The department of public safety shall submit its plan and any related findings and recommendations to the legislature no later than twenty days prior to the convening of the regular session of 2012.""

Representative Ward moved that Floor Amendment No. 7 be adopted, seconded by Representative Thielen.

Representative Ward rose to speak in support of the proposed floor amendment, stating:

"Mr. Speaker, thank you very much. Mr. Speaker, I rise in support of this because it's fair and because it's just. It's the right thing to do and as our former Lieutenant Governor said, 'It is easier to heal our children than to fix broken adults.' This is about our kids, the kids who are troubled, and the kids are going to be evicted if you will, Mr. Speaker, from Kulani Prison. This amendment simply says, before you evict our kids, let's find a place for them, which is the only sensible and fair thing to do.

"The National Guard Youth Challenge Program is what this is all about because they're the ones who bring in these hundreds of kids per year and get them their GED, get them back on the right path to hopefully normal lives after their troubled lives where they are now being taken out of school. They have a 22-week program curriculum. It works. In fact it works so well that retiring General Ishikawa has been tapped by Secretary of Defense Gates at the national level to replicate Youth Challenge for a million kids that have been identified to under this DOD program. So he's replicating that nationwide. We've got a stellar program here, Chair, and we've the people of Hawaii who originated this. We're the progenitors and are going to throw these kids out and make them find their own place.

"All we're saying in this amendment is, find them another place, then move back into the prisoner area. Find them a place first, and then give them a chance to do what they do. Mr. Speaker, one of the first tenants of the Hippocratic Oath, which our Caucus is discussing and adopting, is do no harm to our families. This hurts the weakest families. This hurts the troubled families. This hurts those who need a second chance and we shouldn't throw them on the side while we bring other prisoners back to do what otherwise this Kulani Prison does already. Thank you, Mr. Speaker."

Representative Riviere rose to speak in support of the proposed floor amendment, stating:

"In support of the amendment. Thank you. My support is not in opposition to Kulani being used as prison. In fact, I support that. My support for this amendment involves the tossing aside without a definite home for the Youth Challenge Academy which presently is graduating about 400 trouble youths a year at Kulani and also in Kalaeloa. These two facilities provide our at-risk youth a second chance to lead productive lives and contribute back to their communities.

"Also of importance is the Youth Challenge Academies that are sponsored by the National Guard nationwide. They're federally funded with 75% of the costs coming from a regular budgetary item. It's not an earmark. It's money set aside specifically for this program. And the amendment that we're discussing here will change this basic statement.

"In the current the bill that's up for consideration here, it says, 'The Department of Public Safety is urged to assist the State Department of Defense in identifying alternative sites.' That's all it says. It will assist in identifying alternative sites. What we're asking for is the Department of Public Safety shall not reopen the Kulani Correctional Facility until the Hawaii Army National Guard Youth Challenge Academy is relocated at the alternative location.

"So I just think it will be a tragedy. I think we could all agree that it would be a tragedy if our at-risk youth lose this program due to a rush to do something else which has its own merits, but we mustn't toss one under the bus so that we can rush for the other. Thank you."

Representative Takai rose to speak in opposition to the proposed floor amendment, stating:

"Thank you, Mr. Speaker. I rise in opposition to this amendment. Thank you. I think Members should understand the situation at Kulani. In fact there are a couple of us that went to the opening last year of the second Youth Challenge Program.

"And I had a chance to talk with Major General Darryll Wong recently regarding the second campus. There's another concern that wasn't raised yet today, and that concern is it's in a remote area on the Big Island. So remote that right now the biggest concern for the cadets is actually the safety of the kids because of elopements. Some of the Youth Challenge cadets walk off. When you walk off at Kalaeloa there are a lot of things around there. When you walk off at Kulani, there's nothing there.

"So primarily, the concern right now in regards to the current TAG is that the safety of our kids in fact, is in jeopardy because of the location at Kulani. Now there is no doubt in my mind that the students will be moved to a safe location elsewhere prior to the closure. We owe that to the program, and we owe that to the children.

"But I think Members should understand that right now, the current assessment by our current Adjutant General suggests that the site was ill-advised. We should have not moved there and we need to look for another place.

"The other thing, Mr. Speaker, is when we had discussions Kulani last year, I think the concern among a few of us was why close a prison like that when we have in fact, hundreds, if not thousands of prisoners right now on the mainland. And our main objective right now is to get those prisoners home in facilities in Hawaii so we can pay our own people to guard our own people, and not send money away outside of the State.

"So I think people need to kind of take a look at this from a little different perspective and realize that number one, safety is a concern and we will not put our children in unsafe situations which Kulani right now is. And number two, we need to bring our prisoners home. Thank you, Mr. Speaker."

Representative Ward rose to respond, stating:

"Mr. Speaker. Yes, a very brief rebuttal. Number one, Mr. Speaker, I would hope that the words of the previous speaker would be taken and be codified because what he said is that they're actually going to find another place before they move the prisoners in. All we want to do is to codify what he said. Now if what he said on this Floor was law, I say, end game. Finish it. But there's nothing that says they're going to do that and that's what our concern is.

"In regards to the safety. We have some people who represent the Big Island who may not share that people who are streetwise, those who got in trouble are going to be afraid of living on the Big Island. I did Peace Corp training on the Big Island. I don't think I was afraid in the rural area that I lived in. No one else should be afraid on the Big Island.

"So Mr. Speaker, I know that we have to be politically correct because this is so common sensical. Give these kids a chance. Let's do prevention. Let's do this while they're young while we can get them. Recidivism rates are at 50% for everybody who goes to prison. If these kids go to prison it's going to cost us more in the long run, so it's penny wise and pound foolish. Doing the right thing which is to pass this amendment. Get the kids in there into another place, and then get the prisoners back to where they were. Thank you."

Representative Tokioka rose to speak in opposition to the proposed floor amendment, stating:

"Thank you, Mr. Speaker. In opposition. Mr. Speaker, I'd like to raise a point of clarification. I guess when the speaker from Hawaii Kai was referencing the General Lee and the program, I think he was referring to General Ishikawa who would be running the national program, and we wish both of them Godspeed. Thank you very much, Mr. Speaker."

Representative Hanohano rose to speak in opposition to the proposed floor amendment, stating:

"Having spent 25 years at Kulani, I am in strong opposition. There really is no need for the Youth Challenge to be at Kulani. Kulani is at the 5,000 foot elevation and medical services take at least, the fastest is 45 minutes to an hour to reach Hilo Medical Center. And even for our medical vehicles to reach to the facility, it takes at least a half an hour. So if we have people that have medical concerns, they won't be getting the services as fast as they could, like on Oahu.

"Also because of the climatic change up there, it becomes very cold in the winter months which is from November, December, January, and February. You walk in and it's like you're on the mainland. There's frost on the ground. It's really, really cold. Helicopters cannot land there because of the fog that sets in, in the late afternoon between the hours of 1 p.m. and all the way to the evening. Sometimes you cannot even see. Visibility is so poor. You cannot even see the person right next to you. I mean, that's how thick the fog is.

"Also because of our continuous volcanic eruptions that come up, there's lot of vog that is set free to Kulani so youth that have respiratory conditions, they won't make it there because like I said, the medical services are not readily available as in your urban areas.

"And when they took out the prisoners, they forgot to even include the community and how it impact our community. So the Island of Hawaii as you know, suffers from unemployment from this plus, we had to relocate a lot of our workers.

"The Youth Challenge Program is supposed to be an end of the line program, but technically, the way I look at it, it's just a military school. And in one of the briefings in January, the Youth Challenge came and said they wanted to expand and invite other mainland Youth Challenge students to be there. So I find this very deceptive.

"When I went to the opening of Kulani with the Youth Challenge, I was pretty appalled at what the former Governor said. She wanted to make that actually a charter school. Then after that, when one of the people from the National Guard said, 'Let's do Youth Challenge,' then she jumped at it and that's how we got Youth Challenge up there.

"Throughout last year when we were asking the questions of why Kulani, nobody could answer it. Then I found out the answer when I went to the opening. So I'm really in strong opposition and I don't want to even adopt this draft in front of us. Thank you."

Representative Ching rose to speak in support of the proposed floor amendment, stating:

"Thank you, Mr. Speaker. I rise in support of the amendment. Thank you, Mr. Speaker. At its core, I guess we're asking that we invest in

prevention rather than prisons. And I guess this amendment to clarify is really not to debate the issue of whether the location is so ideal. It's to debate the question of are we going to make sure that this program can continue, because if you just eliminate them, the only provision that is being made by this amendment is to make sure that there's a place prior to ending and basically maybe kicking these people out and eliminating a positive step.

"You know I used to tell my daughter, think of it this way. When you're approaching life and you have a problem, do you want to, should you be overflowing the tub? The tub is overflowing. The faucet is on. We've all done that maybe once. Do you take your sponge and start wiping up the water? Or do you shut off the faucet? That to me is the metaphor I've always felt for prevention in terms of our prisons, in terms of the things that we do. We need to find the source. We need to get the source, and we need to shut off the faucet, versus wiping up the floor.

"So that is why I think that our Caucus feels strongly about protecting this program that has had accolades on this Floor and that is truly, I believe, the intent of the amendment, Mr. Speaker. Thank you."

Representative Ward rose, stating:

"A point of clarification, or information. I was referred to as having referred to General Lee. It's General Ishikawa that I referred to as heading up the national program which is the model based upon this one."

The Chair responded, stating:

"That is what Representative Tokioka clarified on your behalf. He mentioned General Ishikawa."

Representative Ward: "I believe he said that I referred to General Lee. I never mentioned General Lee's name. I think maybe the gentleman who serves in the military is the one. Thank you."

Representative Takai rose to respond, stating:

"Mr. Speaker, again I'm in opposition. I just wanted to clarify to everybody, General Ishikawa our former Deputy Adjutant General is possibly heading up a national program for About Face. It's not the Youth Challenge Program. So although the focus of his program are the kids, the program that is run by him here, it is actually in the late elementary and middle-school age. Youth Challenge is a separate program, so I just wanted to make that clear."

The motion that Floor Amendment No. 7, amending S.B. No. 1358, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," be adopted, was put to vote by the Chair and upon a voice vote, failed to carry, with Representatives Hanohano, Takai and Tokioka voting no.

(Main Motion)

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

"Mr. Speaker, I have strong reservations."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1358, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Har and Pine voting no.

At 10:00 o'clock a.m., the Chair noted that the following bill passed Third Reading:

S.B. No. 1358, SD 2, HD 2

At this time the Chair announced:

"Members, we will return now to the Ordinary Calendar on our Order of the Day."

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1461) recommending that S.B. No. 1025, 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. 1025, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

Representative Johanson's written remarks are as follows:

"I stand in strong support of SB 1025 and I am particularly supportive of language that highlights the intentional targeting of seniors over sixty-two years old or individuals who are incapacitated or have a developmental disability. I believe crimes committed against those individuals who are vulnerable, either because of age or disability, are among the most offensive and criminals who commit such crimes should be punished accordingly."

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

"Thank you very much, Mr. Speaker. In strong support and just some brief comments. I'm just so glad to see this measure finally moving on to Third Reading. It is long overdue. Thank you, very much."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1025, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PENAL CODE," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1467) recommending that S.B. No. 1040, 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. 1040, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I'm rising to speak against the Senate Bill 1040. Thank you. I fully support safety in the workplace and I applaud efforts to ensure that Hawaii workers and their employers operate their businesses in a safe and appropriate manner.

"But I'm concerned that this bill is taking a punitive approach to our occupational health and safety laws by increasing fines for violations. This punishes the employer after the fact, when the employee is already harmed rather than taking a preemptive, proactive approach. Our HIOSH formerly focused on educating employers and employees about workplace safety. This approach helps prevent accidents before they occur and I propose that's a far better way to do it.

"The federal OSHA offers to provide inspections of work sites to help employers identify and address safety concerns without fear of reprisal or punishing penalties. The State should focus on continuing to work, as the former Administration did, continue to work with the business community to help lessen the number of accidents in the workplace. I support this kind of constructive initiatives rather than placing more financial burdens on those who create jobs in Hawaii. In other words, education can prevent injury and that's the better way to go. Thank you."

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

"Mr. Speaker, I rise in support. I'll be very brief. I find that ironic to say that we want to look at what the former Administration did when they cut HIOSH from 14 positions, down to 3. Now we're under a federal audit. The OSHA on the federal level is asking if HIOSH even do its job.

"And so I find that very surprising to say that we should continue that model when on Friday what happened was we had five people die in an industrial accident, as well as one more in Mapunapuna. Now that's six people dying all on the same day in industrial workplace accident. I don't know if it was an OSHA violation or not, but when you only have three inspectors, the ability for inspectors to go out there and make sure that we have a safe workplace is extremely unlikely and extremely difficult.

"And so I find that extremely surprising that anyone would say these very modest increases in fines are actually something that should be opposed because we're actually only talking about a 10% increase. A 10% increase and that's the maximum amount of fine that can be assessed.

"And let me tell you how fines are assessed under our HIOSH law. What happens is there are two basic standards: one is for the seriousness of the potential injury, and one is the likelihood of the potential injury. So if it's extremely serious, like death, then at that point you're going to get the max of now $7,700 for somebody dying. So if it's anything less than that, then it usually goes sliding down that scale.

"The other way that it's looked at is the likelihood of that happening. So let's say it's not a serious injury, but it continues to happen where it's very likely, because you have hundreds of employees walking through the same place, then at that point yes, they will assess the additional $7,700 because of the likelihood of that injury.

"But third, let me say that there is a safeguard mechanism and monitoring. Anybody that gets assessed a HIOSH fine has a full right to review and appeal before a Hawaii Labor Relations Board, and so at that point if a fine is deemed to be too extreme, if any sanction is deemed to be too draconian, they have the right of an appeal. The Labor Relations Board will look at it, look at the facts, and determine whether the fine should be reduced. So for those reasons, I urge my colleagues, for the safety of our workplace, to support this bill."

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

"Mr. Speaker, in support. I just wanted to adopt the words of the Majority Leader as my own. I might mention that this is the first time I've ever done that on the Floor. That was a very eloquent statement. I'd also point out that the HIOSH fines have not been raised since 1992, so the 10% increase that's proposed in this bill does not even come close to keeping up with inflation over the last 19 years.

"The other thing I would point out is that the average fine that HIOSH levies is less than $500, which means two things. One, it means that very, very few of the really big fines are utilized because it doesn't take very many $70,000 fines to pull the average above $500. The other thing that it indicates is that the emphasis on safety that one of the previous speakers had mentioned is there, because most of the smaller fines are for a failure to put up safety notices and things like that.

"So I think this is a very moderate step and to call it punitive, I think is not accurate. Mahalo."

Representative Thielen rose to respond, stating:

"Thank you. I'll be very brief, Mr. Speaker. I would like to just say my objection comes because of the focus of the bill. The focus of the bill is punitive; fines and punitive. I believe that we should encourage education to prevent accidents because the prevention is much better for the employees, and that's what should be the true focus of this measure. Mahalo."

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

"Mr. Speaker, can I get a ruling on a potential conflict? I represent contractors that could be impacted by this bill," and the Chair ruled, "no conflict."

Representative Har continued 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.)

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

"Mr. Speaker, I forgot to ask for a ruling on a potential conflict. At my law firm I represent employers who often have OSHA cases. 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. 1040, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII OCCUPATIONAL SAFETY AND HEALTH LAW," passed Third Reading by a vote of 46 ayes to 5 noes, with Representatives Ching, Fontaine, Marumoto, Pine and Thielen voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1472) recommending that S.B. No. 1284, 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. 1284, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1473) recommending that S.B. No. 1485, SD 1, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the committee be adopted, and that S.B. No. 1485, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I rise in support with reservations. Employees deserve fair treatment. There is a process in place to deal with personnel issue. In my opinion, some of the causes of failing schools are the lack of employee motivation, guidance, and training. I know that the Superintendent of Education will do what's best for our children, and will respect the rights of our teachers and our DOE employees. Thank you."

Representative Kawakami 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 Kawakami's written remarks are as follows:

"Mr. Speaker, on House Standing Committee Report No. 1473, Senate Bill 1485, Senate Draft 1, House Draft 1, Relating to Reconstituting Schools, I vote aye with reservations.

"Mr. Speaker, I have serious concerns on the potential affects that Senate Bill 1485 could have on the morale of our Hawaii's public school teachers, who are already being impacted by furloughs and school closures.

"This bill could result in penalizing teachers who are not performing at an "excellent" level, through no fault of their own, but simply because the school at which they teach is operating, overall, at a substandard level. If this happens, it will be sending our school teachers, some of our most important public servants, a negative message. It may be saying that we

do not support them. And I believe that we can ill afford to send this message.

"Those who have chosen a career as a public school teacher for this State already face stress and hardship. Many of them must expend their own resources to try to provide our children with educational opportunities, despite low pay, budget cuts, increased class sizes, school closures, and furloughs.

"Mr. Speaker, this bill may result in additional, unnecessary weight upon their shoulders."

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

"Thank you very much, Mr. Speaker. I rise in support with reservations. I just want to say my concerns are that there's a lot of issues as to why a school is in restructuring that are not solely because of the teachers that are there at the school, nor the staff. Thank you, very much."

Representative Johanson 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 Johanson's written remarks are as follows:

"I speak with reservations on SB 1485. It is vital for the Legislature to continue exploring how to reform our education system for the sake of the children, particularly because more reform can help us ensure our children are getting the best education possible and are prepared for their futures.

:My concern with this particular bill is related to teacher recruitment, retention and morale. Should reconstitution of schools take place, every effort should be made by the Superintendent to ensure a positive work environment for our hard working teachers who remain and optimization of those staff members who are transferred from any reconstituted schools.

"I believe that this is a needed reform and I want to make sure that the implementation of this legislation improves our educational system, encourages effective teachers to remain in the classroom, and improves the quality of education for our children."

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

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

Representative Keith-Agaran rose in support of the measure with reservations and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

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

"Thank you, Mr. Speaker. I rise in support of this bill with some reservations. The purpose of this measure is to allow the Superintendent of Education to reform a public school (except for certain charter schools).

"It would also recommend changes to the charter school review panel, including the retraction of a school's charter sooner than authorized under current law.

"Reconstituting a school is an extraordinary power and can disrupt seriously the life of any school and the community it serves. Use of this power should be wielded judiciously.

"Restructuring, like other tools intended for educational improvements, needs to keep student achievement as the primary goal. Drastic changes should not be done for the sake of change alone.

"Nevertheless, when necessary, I agree that the Superintendent needs the flexibility to make changes – we shouldn't remove our kids from their neighborhood school, but we certainly can move the adults charged with their education if improvements are not shown after opportunities and resources are provided to them.

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

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

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

Representative Wooley's written remarks are as follows:

"I am in support of this bill with reservations. I have concerns about providing the Superintendent with so much control over whether or not a school will close. Rural schools have been at a disadvantage when the DOE evaluated potential school closures in the past. In addition, I believe the DOE can save money in other ways, such as allowing schools to share staff and facilities, or simply by reducing administrative costs.

"Fortunately, this bill clearly limits the Superintendant's power to close schools only after they have been in restructuring for four or more school years and have not made significant advancements toward improving academic performance. I hope that changes to the bill can be made to ensure that the state's rural schools are not put at a disadvantage when the Superintendent makes any school closure decisions."

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

Representative Nakashima's written remarks are as follows:

"Senate Bill 1485 would allow the Superintendent of Education to reconstitute a public school. I do support the intent of the bill which provide the Department another tool to address under-performing schools, however I am concerned that the Department has failed to demonstrate its ability to utilize conventional tools such as an effective evaluation process, in-service training, and mentoring programs as less intrusive opportunity for improving individual personnel performance and allowing for enhanced school opportunities."

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

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support with reservations of SB 1485. While I support efforts to improve the education being offered to Hawaii's children, education system needs a reform. I agree that there are number of factors determining a child's success in school. The question becomes if this is the best comprehensive solution? 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. 1485, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO RECONSTITUTING SCHOOLS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1475) recommending that S.B. No. 590, 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. 590, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I'd like a ruling on a potential conflict. I previously served a member of this Commission. 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. 590, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE LEGISLATIVE FEDERAL ECONOMIC STIMULUS PROGRAM OVERSIGHT COMMISSION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1477) recommending that S.B. No. 779, 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. 779, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, can I please get a ruling on a potential conflict? At my law firm I represent owners, contractors, and design professionals. Thank you," and the Chair ruled, "no conflict."

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

"Thank you, Mr. Speaker. In opposition to this measure. Yes, what this bill does is for the first time in the history of the State of Hawaii we're going to now give a financial award to losing bidders of contracts. And I started researching this issue to see what other states are doing. One of the states that does this is Texas. It was a provision in a law that a legislature just like ours put in and the goal was to spur competition, more competition. They felt that this would be good for the people of Texas and so they implemented this law in the late 1990s.

"However, Texas right now is re-reviewing this law. The Chairman of the Transportation Committee, Senator Mike Fasano was not present at the time of the law and so in his review of different types of contracts and Texas expenditures, he was very concern that this was a current practice in Texas. He stated, 'This is one of the most ludicrous things I have ever heard of government doing.' And he said, 'We are concerned now because a lot of money is being spent dishing out this money. What concerns me is here we are having to tell education and nursing homes, Sorry we're going to have to cut you, but oh by the way, we're going to continue to pay companies that put in bids and don't get selected.'

"And in our current fiscal situation, Mr. Speaker, I have to say what the head of Transportation in Texas said really is close to my heart because like the Majority, the Minority did put together a budget and we had to look at these very programs that possibly we know will be cut if we don't find moneys elsewhere.

"I've been concerned about this since I first heard this bill in EDB and I just find it fundamentally wrong. It goes against everything in terms what business is all about. Business is about risk. Business is about a desire for success and knowing that there's a chance that there's failure. And so in these economic times I feel that we should not be giving out money to losing bidders.

"Another state who has implemented this type of pay structure, what they asked was, did it encourage competition? Well what they did is they went back to the time before the law and they found out that there was no increase in the amount of bidders. In fact what they did find was an increase in the amount of larger companies that had broken up into smaller companies and they in exchange, gave different bids as different companies, but they were still part of the same larger company. And there's nothing in this bill that will prevent that type of thing from happening, Mr. Speaker.

"And I think what's concerning is the amendments that were made to this bill is it allows the Director of Transportation to make the final say. I think as a Legislature we should not be give up any more of the 'purse strings' because it's going to take some time to get out of the economic status that we're in now. We need to be wiser. If we want to help education, and we want to help human services, and we want to help the homeless, and other areas that are so key to what government is for, we should ensure that we approve these type s of projects if this is the type of bill that this Legislature wants to go forward with."

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

"Thank you, Mr. Speaker, I rise in support. Mr. Speaker, this bill is giving a tool to State government to hopefully come up with some really good construction projects. It's not a 'shall,' it's a 'may.' Also it has a lot of conditions on it. It would allow for a Request for Proposal to be selected from the short list, and the request shall include design requirements, solicit proposal development documents, and state proposal evaluation criteria. The Procurement Officer may pay a conceptual design fee to non-selected authors that submit a technically responsible proposal to the Request for Proposals in this, provided that the terms of payment of the conceptual design fee shall be stated in the Request for Qualifications, and the Request for Proposals.

"Now coming from a state that used design-build, and this was Washington State, it was a critical point in time where they were going to put the Department of Natural Resources building, a brand new building on the State campus. Design-build was a critical element to coming up with the design that was very acceptable to the community, to government leaders, and that really fit well with the whole State campus. If it had not been design-build where they had people come up with conceptual designs and put it out to everybody to look at, if it had just been low bidder, who knows what we would have ended up with.

And so I think sometimes you have to give tools and flexibility to come up with some great conceptual designs that are not only visual, but functional so that people believe that this is really what we want. I think the focus should always be on whoever is putting together the specifications and putting the proposal together before they put it out to the community to come in on. But I love this tool. I think it's long overdue and I hope everybody supports it. Thank you."

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

"Thank you, Mr. Speaker. I rise in opposition. Actually I voted for this before I voted against it, and let me tell you why. Because the bill in the Committee Report contradicts and goes against what it is saying in the bill. The Committee Report says the purpose of this bill is to preserve creativity. Mr. Speaker, I was looking for that word because I think in a previous iteration of this there was creativity or value added, that when you do reward somebody for a technical proposal it's because a good idea can be adopted and a better mouse trap can be made. But this says simply, 'Hey if you put a technically responsible proposal, you get paid for it.' Or may get paid for it, which is a second problem.

"These kinds of things should not be at the discretion of one person. It's the Procurement Officer, and if there's anything that corrupts people it's when the bidding process and the relationship between the bidder and the biddee and all those things.

"So, Mr. Speaker, it's a great idea, I agree with the previous speaker. A good idea, but the way it's codified is incorrect, imprecise. If it doesn't mention, there's got to be some value added, some creative that we're paying for. Otherwise as my colleague has mentioned why are we giving corporate welfare for the sake of people going through what they should otherwise do, if they want to win a State contract. Thank you, Mr. Speaker."

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

"May I have a ruling on a potential conflict, Mr. Speaker? At my law firm, I do procurement law," and the Chair ruled, "no conflict."

Representative B. Oshiro continued in support of the measure, stating:

"Thank you. Very briefly I'd like to make a few comments in support. The surprise to me is that there is any objection about the potential for a public-private partnership, and that's really what procurement is about especially when it comes to the idea of design-build.

"Design-build is the most flexible type of procurement that is out there because what you're doing is putting out what your need is, and then you're asking the private sector to come up with innovative approaches through design, as well as build, and to find a cost effective manner to address that need.

"And so that to me is extremely surprising because all you do as a government agency is identify the need. You don't necessarily say what you want. You just say, here is the service or the material or the good that I am seeking and how are you going to creatively put that in a proposal so we can consider that. And this is actually a standard way of procurement that's done under the federal acquisition regulations, and this is the basis by which the feds actually enhance creativity and innovation.

"Because under design-build what happens is when you get a good idea, even if that person may be too expensive, you can use that idea, select the other person, and you pay that person for their idea through reimbursement of their proposal cost. Therefore you don't have to worry about them coming after you for taking a license, or taking their creativity. You pay them for their idea and then the State gets to use it. And so for that reason I find this a very creative approach, and think it's something we should support as we continue to want to enhance public-private partnerships. Thank you."

Representative Pine rose to respond, stating:

"In rebuttal. I actually agree with the previous speaker in a lot of the things that he said. We're definitely for private-public partnerships. We really believe that is certainly the way to go if you want to save taxpayer dollars.

"However, I guess I have a better idea to implement that better idea. Why don't we instead of automatically saying that we're going to give the Director of Transportation the authority and the power to give money away. Why don't we instead say in this bill that if we want to use your idea, then we will pay for it. But we're not going to automatically give winning bidders. That's what this bill is saying. It's that we want to go ahead and put in statute, just as what they did in Texas that gives the authority to the head of transportation. What was happening in Texas is they were giving away money, and what they were doing is they'll give away like $500,000 for one or two sentences used in a contract.

"Certainly we can say of course, the intent of that is not in this bill, Mr. Speaker. However, there's nothing in this bill that guards against that type of fraud. We could have a renegade Governor one day who solely gets all of their donations from bills like this. And because of the way that the bill is written, as this bill is very similar to Texas's law, it gives the Director of Transportation that discretion.

"And so all I'm saying, Mr. Speaker, is we need to be wiser and be very concerned about the way that this is drafted. So in Conference Committee I hope that we do put tin hose safeguards."

Representative Ward rose to respond, stating:

"Mr. Speaker, just a very brief footnote of concurrence with the Majority Leader. It was so well spoken. I just want to reinforce if could codify what he said, hands down, the bill is perfect. But the bill doesn't say what he said, and that's the problem. If it's a good idea, it should say something about value added. It should say something about creativity. It should say something utilization. The bill is silent about that. So as we read things in. For the gentleman who always says, 'Read the bill,' I would say, 'Please read the bill.' What you said is not in there, but I hope it would be codified through Conference Committee. 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. 779, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Third Reading by a vote of 47 ayes to 4 noes, with Representatives Fontaine, Pine, Riviere and Ward voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1478) recommending that S.B. No. 1107, 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. 1107, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAX," passed Third Reading by a vote of 51 ayes.

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

S.B. No. 1025, SD 1, HD 1
S.B. No. 1040, SD 1, HD 2
S.B. No. 1284, SD 2, HD 1
S.B. No. 1485, SD 1, HD 1
S.B. No. 590, SD 1, HD 2
S.B. No. 779, SD 2, HD 2
S.B. No. 1107, SD 1, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1480) recommending that S.B. No. 1241, 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. 1241, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I rise with reservations. I completely understand the context in which this bill was crafted, and I'm aware of the budgetary constraints that we're under. The one reason that I have reservations about this particular bill is that in the broader context of our affordable housing discussions, it's not the most lucrative prospect to be building affordable housing and low-income housing in the State. And I worry that by removing the Conveyance Tax exemption, we're increasing the costs of building affordable housing and low-income housing, thus reducing the catalyst for building more stock. That may not necessarily happen, but that is a concern to me which is why I have those reservations on this bill. Thank you."

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

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

"Mr. Speaker, I wish to speak with reservations on this measure, Senate Bill No. 1241. I believe we don't have enough low-income housing and to take away the exemption, I believe, doesn't help the situation. I would hope that the Conferees can possibly make some adjustments to this particular measure. My understanding is that they have not been very successful enticing business people to come in and provide low-income housing, but I believe that possibly we need to put more effort into that measure because we do have a tremendous problem out in the community. Thank you."

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

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

"Mr. Speaker, in strong support. And just a couple of points. According to the Department of Taxation, the revenue impact of this measure is of

minimal revenue consequence. But more important, Mr. Speaker, according to the Hawaii Housing Finance and Development Corporation in their testimony presented to the House Finance Committee, they informed us that the Conveyance Tax is actually paid by the property seller, and not the purchaser. And that the entity that will actually be developing the low-income housing project is the purchaser, usually a nonprofit housing developer.

"But more importantly, Mr. Speaker, there is no requirement for the seller to pass on any of the savings realized from the exemption to the low-income housing project being developed, or are reserved. I thought we should understand that, Mr. Speaker."

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

"Mr. Speaker, I'm not that familiar with the bill, but I'm taken by the words of the speakers from Moanalua and Wailuku so I vote with reservations, and would like their words incorporated as my own," and the Chair "so ordered." (By reference only.)

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

"Mr. Speaker, I want to adopt the words of the Finance Chair, as far as the testimony of the Hawaii Finance Development Corporation that no one has used that ever since it was in the books. I also want to comment that since there is a budget shortfall, the Conveyance Tax is an entity of the State. It goes into the State coffers. So this bill is something that we should support. We should all vote for because we are short with funds. This is good way to balance the budget, Mr. Speaker. 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. 1241, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONVEYANCE TAX," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1486) recommending that S.B. No. 809, 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. 809, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1488) recommending that S.B. No. 1332, 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. 1332, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, may I have a ruling on another potential conflict? My law firm is involved in litigation against the UH with its procurement practices, but I'm not working on those cases. Thank you," and the Chair ruled, "no conflict."

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

"Thank you, Mr. Speaker. I rise in opposition to this measure. Thank you, Mr. Speaker. You know, over the years I've supported the University of Hawaii and its procurement exemptions, but most recently I've become very critical of what the University has done. In fact, we can take a look at two recent examples. One, being the process at UH West Oahu and the selection of the developer, and most recently, the process of selecting the developer for the UH Cancer Research Center.

"Now at best, I believe that the process for both were inadequate. At worst, as alleged by a few people that made bids for those two particular projects, at worst UH wasn't playing fair. UH should not be seeking preferential treatment as they are a State public university funded by taxpayer dollars. The same goes for the Judiciary, DOE, Executive agencies, counties, etc. who are all subject to the requirements of the Code. Our public university should be an example of fostering equality, fairness, transparency, and openness in government contracting and the procurement process.

"Passage of this bill provides special treatment for UH, instead of the University being a leader in championing a level playing field for all. Public procurement's primary objective is to give everyone equal opportunity to compete for government contracts to prevent favoritism, collusion, or fraud in awarding contracts. Meeting this objective requires a single set of statutes and rules that define and mandates the use of selection processes that are competitive, efficient, fair, transparent, open, and impartial. The Code should not be viewed as an obstacle to a purchasing agency's mission, but rather as a single source or public procurement policy to be applied equally and uniformly.

"And if we intend to continue this exemption, the exemption should include assurances that the University of Hawaii's exempt process includes fair and open competition, disclosure, transparency, due process for aggrieved parties, and defined selection and awards process in the various elements contained in the Code to ensure public confidence that this exempt procurement process is fair.

"I want to also add, Mr. Speaker, the Cancer Research Center, the most recent project worked on by the University, despite the fact that the University of Hawaii has a procurement exemption, they chose to route that project to the Resource Corporation University of Hawaii, otherwise known RCUH. I still don't understand why because they currently have the procurement process exempt from the State procurement process. But they chose to go to another distant organization to run that particular project through, and there are tremendous concerns regarding that. I just raise this today and I hope people take a look at this. Ask questions about what has happened recently, and just kind of look at it from the perspective of being taxpayer dollars going out, and from our perspective, in a fair and equitable way. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I stand in support, but with serious reservations. And I would just like the words of the previous speaker adopted as if they were my own. I just find it ironic that a university that has an institute dedicated to procurement would want to exempt themselves from the Code. Thank you."

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

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

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

"Mr. Speaker, I rise in support of the alma mater of 60% or 70% of us on this Floor. For the sake of the University, Mr. Speaker, we the Body, the House, the Senate, the Legislature gave them autonomy. In fact, we haven't given them all autonomy. One of the autonomy is this procurement, or it falls under the umbrella of autonomy.

"We either give them autonomy or we don't, and this is part of it. We trust those who generally with the education perform with what is expected of them. If there's a little bump in the road, it doesn't mean to take it back. It means to get along with it and do it better the next time. Obviously the University can do better. We can do better. But if we've given them autonomy, it's a dream that they have not yet realized and we have not yet given them. 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. 1332, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 46 ayes to 5 noes, with Representatives Belatti, C. Lee, Luke, Rhoads and Takai voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1489) recommending that S.B. No. 112, SD 1, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the committee be adopted, and that S.B. No. 112, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Yes, Mr. Speaker. Thank you for the reminder. The University sidetracked me. I'll be very brief, Mr. Speaker.

"This bill is a bright light in the future of our economy, our economic diversification. In fact, if we look at what's on the Floor today with tax increases, with things that are bad news for the economy, bad news for our families, bad news for job, this one is a bright light. It allows for diversification. In fact, if we look at the whole of what's on the Floor today there are two bright growth nodes for our economy. One is the movie industry with the tax credits. The second one is the diversification of space tourism, along with the space lunar park that will be discussed later. Or was on the Consent Calendar? I forget.

"The point being, those are high-paying jobs. It gives us a future. It gives us a hope. And Mr. Speaker, I stand in strong support. Thank you."

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

"Thank you, Mr. Speaker. In support, and much as it chagrins me, I would love to have the words of the previous speaker adopted in the record 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 the report of the Committee was adopted and S.B. No. 112, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOURISM," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Pine voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1491) recommending that S.B. No. 1522, SD 2, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the committee be adopted, and that S.B. No. 1522, SD 2, HD 1, 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 outlawing 'puppy mills,' but I wanted to just point out some unforeseen problems with this bill. I believe that we will have time to fix those because I believe that it requires a sunrise review, and there is a measure moving to have that happen.

"I totally applauded the shutdown of the 'puppy mill' in Waimanalo. That was just an inhumane situation and it was very fortunate that the Humane Society was able to take over 200 dogs and puppies to the Humane Society. A number of us participated in getting the Humane Society the different things that they needed. We took a couple of trips up there with some of the newspapers for the bottoms of the cages, and we took some cages up and other things. I wanted to thank the Members that participated in that drive.

"But the problem, well first of all there is a Senate Concurrent Resolution 111, and it's being moved through. The Auditor would examine how to regulate 'puppy mills' or how to regulate dog breeders and propose effective legislation for us next year. This bill, which maybe should just sit and wait, could have the unfortunate side effect of putting out of business your legitimate hobbyist from continuing their breeding programs.

"And these legitimate dog breeders they provide service, search, rescue, therapy, competition, and performance puppies, as well as family pets. Were they to be shut down inadvertently by this legislation, those animals would have to be purchased through retail outlets which might come from an illegal 'puppy mill' that's still operating, or from imported countries without rabies restrictions such as New Zealand or Australia.

"The issue is, Mr., Speaker, you can't have more than 25 puppies per year. We had a golden retriever when our children were growing up and she gave birth to 14 puppies humanely, and everything was fine. But the point of that is if you have a large breed dog, that dog could very likely have two litters a year, not be a 'puppy mill', but would exceed the limit of 25.

"So whatever we do, we don't want to cause any problems for our legitimate breeders. I would think that the Senate Concurrent Resolution gives us a very good reason to hold off on actually passing this bill and just waiting. Leave it in Conference Committee so it's ready to go once we get the Auditor's report. But let's be very careful that we don't harm the legitimate breeders in our community. I imagine a lot of us here in this building have, or have friends, or ourselves have obtained dogs from legitimate breeders. Certainly not from 'puppy mills' one would hope. Thank you."

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

"Thank you, Mr. Speaker. In support, and I ask that the words of the Representative from Kailua be entered as my own. Thank you. I did just want to thank this Body, and the Chairs and Vice Chairs for their support of dogs, and lifting us from the notorious position of one of being rated very low in terms of protecting our animals. Ironically, in the Aloha State.

"I did want to just say that it's fitting that this particular animal be supported in the House because it's important to support those who protect us. I wanted to call attention to a full-page newspaper article that was in the March 15 *Star-Advertiser* reprinted from the *New York Times* that talks about how good dogs are for the health. So for those who protect us, whether it be at the airport for terrorism, for ag, for everything, it's important that we remember that they are man's best friend."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1522, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DOGS," passed Third Reading by a vote of 51 ayes.

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 1493) recommending that S.B. No. 41, 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. 41, SD 1, 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 strong reservations. Mr. Speaker, this bill is potentially dangerous in that it is working with the Prepay Health Plan of Hawaii of which we're not sure what the outcome, and what's it going to be. I think if we rely upon what we have been told, that we are going to be exempted from the National Health Insurance that's about to hit, we can rest. But I think we should do our homework before rushing into this, and the price of being wrong is simply too high.

"Remember that we've constantly assured the people of Hawaii that there will be no change in their health measures, health premiums, health carriers. We seem to be rushing into something that is unknown. But like builders and carpenters always say, when in doubt, 'measure twice, cut once.' And I think we have to get back and do some homework. Thank you."

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

"Yes, Mr. Speaker. In opposition. I'm looking at the Attorney General's testimony on this bill, Mr. Speaker. And the Attorney General states that he understands the intent of the bill, but has very serious legal concerns that the proposed repeal would likely be preempted by the Employer Retirement Income and Security Act. However, since there is no case on point, should the repeal be challenged on preemption grounds, the outcome just cannot be predicted with certainty.

"So even our own Attorney General is saying, 'Hey, while we're trying to exempt us from certain provisions of President's Obama healthcare program, we could be putting at risk our own healthcare program.' The bill he cites will also repeal Act 99 passed by the Legislature in 1994 which repeals Part 5 of Chapter 393 HRS, but only becomes effective upon the effective date of any federal Act permitting.

"So, Mr. Speaker, I'm really concerned. When the federal government was debating President Obama's healthcare bill, our Congressional delegation all individually said, 'Hawaii, you don't have to worry, because we have made sure that we are exempted from this federal legislation.' And so as a constituent, I was telling my constituents repeating what our Congressional delegation said. So did they not tell us the whole truth? Was there a deal saying, okay you have to pass all these bills for us to really be exempted? So as I see more of these bills going through the Legislature, I'm very concerned that we weren't given all the information."

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

"Thank you, Mr. Speaker. I rise with reservations. Thank you. I do share the concerns of the Minority. In fact, I appreciate their concerns and I'm assuming that we all support the continuation of the Prepaid Health Care Act in Hawaii, and that is good news for all of us because we can't afford to lose it. I do note as well, the concerns made by the Attorney General. So as we move forward on this, we need to be extremely sure that we don't lose Prepaid Health Care in Hawaii.

"I note also that the federal law doesn't come into effect until January 1st, 2014 so we do have some time. I urge the Managers of this bill as it goes to Conference, and I know it's a clean bill right now, but I'm hoping that we hold off or the Senate holds off on Final approval until we get clarification. But I urge the Managers of this bill to ensure that we don't lose Prepaid Health Care. Thank you."

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

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

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

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

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

Representative Riviere 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. 41, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII PREPAID HEALTH CARE ACT," passed Third Reading by a vote of 51 ayes.

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 1494) recommending that S.B. No. 1086, 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. 1086, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Yes, Mr. Speaker. In opposition."

The Chair addressed Representative Pine, stating:

"Would you like to reference your statements on Second Reading to be incorporated in the Journal?"

Representative Pine responded, stating:

"Well it didn't really work to convince anybody so I think I have to say it again. Last chance, okay? In opposition, Mr. Speaker.

"You know what's so great about our country? When my grandpa came here on a boat many, many years ago from the Philippines, he came here with just a scraggly pair of shoes, a few different pairs of clothing and just enough food to eat for a week. But he had this incredible dream that he could make something out of himself and change the poverty that he lived in the Philippines. And since then he has motivated our family to rise up and to change our history, and we have many business owners in our family.

'We don't sell bread, but it's given me a lot of affinity to the many business people and to the local people and the workers that came in opposition to this bill.

"This bill is still about putting a sign at a store claiming whether a piece of bread has been frozen or not. We're misusing, in my opinion, Mr. Speaker, we are misusing our positions of power to start a marketing campaign for another company. And that's not the kind of dreams that my grandpa had for America. He believed that government was supposed to help people. We're supposed to help the poor. We're supposed to help you have education. But not help one corporation that's already a multimillion-dollar corporation to destroy the little guys.

"Who are the little guys? Lava Rock Café from Volcano Hawaii says, 'I see no reason whatsoever to legislate anything regarding previously frozen products unless your goal is to raise the prices for Hawaii consumers and help the State be monopolized by one bakery.'

"The Waianae Store owner said, 'Waianae Store is a family business that has served the community in Waianae for many years. These products we provide are serviced by local companies with local employees. Signage or labeling would only confuse our customers and mislead them into thinking something is wrong with our products.'

"Freezing bread, baked goods is an industry standard to maintain freshness yet we're saying in our bill as its amended, we can't call something fresh anymore. But these bakers are saying that's the way you keep freshness.

"Kahului Trucking and Storage, their biggest clients are those people that sell bread and he also agrees that this is going to confuse their products, hurt their business.

"Island Catering of Maui said, 'This is going to hurt us.' Hawaiian Isles Distributors are saying ,'You're hurting local people.' Pukulani Superette from Pukulani said, 'Please don't do this.'

"Punaluu Bake Shop in Naalehu states, 'Over the past several years, Punaluu Bake Shop has expanded our sales of our bread products to the Neighbor Islands of Maui, Kauai, and Oahu.' This is a local business that started from nothing, Mr. Speaker. 'We have done so through this new frozen and thaw program. The frozen and thaw program has enabled us to

increase production and sales for our company and staff here while making customers happy throughout the State with our delicious product from the Big Island. Like any baked product in our distribution system, our products come with a full money back guarantee. Labeling things misleads people into saying that what we're now doing and hiring more people because we have increase business is wrong.'

"And Ani's Bake Shop in Aiea states, 'This bill will cause us to lose business and have to lay off staff as we cut back our local operations.' Watanabe Bake Shop finally, Mr. Speaker, says, 'This bill will punish us and make us our customers think that there's something wrong with our product.'

"So finally, Mr. Speaker, I plead with the Members again. This economy is not doing very well right now and we must do everything that we can to use government wisely."

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

"Mr. Speaker, in support. Mr. Speaker, the bananas our grandfathers picked are now labeled non-GMO, and GMO is an industry standard. Thank you."

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

"Thank you, Mr. Speaker. I rise in opposition. And you know, I really love Love's Bakery. I do. And actually I wanted to mention that once again, like I did on past readings, that they actually have some ties to my district and I'm proud of that. And I point it out every single time, I say, 'You see that house? That's a Love's Bakery family house.' And I would love to see them promoted as one of the oldest bakeries. It's a wonderful thing. It's an impressive thing to last this long.

"But this piece of legislation, why it concerns me is once again, I always feel that we have to be able to stand for what we vote on in this House because we are the leaders. We're the leaders and what we say is a message to the people. And the concern I have for this bill is that it tells the people that you know, maybe it's an anti-business thing, that maybe if you're the favorite son or something, you're okay. You can have some of this special labeling because if it was a health related situation, I'm all for things like a Surgeon General's warning.

"If it was health related to protect our people we must. But if it's under this kind of this transparency, at what point do you take that logical argument? You take that argument to what you're going to now say what second and what minute it was delivered in the store. It's not health related so it doesn't have that pragmatism.

"And what it does is to me, it sends a message that we don't have a level playing field. And then it doesn't attract people for business and then they think, 'Gee you know, is Hawaii a good place to do business?' And we want that reputation, especially before APEC.

"So I wanted to incorporate the words I did have in the last reading. Thank you, Mr. Speaker and reiterate that we must remember the messages we send. Thank you."

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

"Thank you, Mr. Speaker. I'd like to ask for a ruling on a potential conflict of interest. My family owns and operates a chain of grocery stores on Kauai," and the Chair ruled, "no conflict."

Representative Kawakami continued in support of the measure, stating:

"I stand in support of this measure. Thank you, Mr. Speaker."

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

"Mr. Speaker, I rise in opposition to the measure. Mr. Speaker, there's another player on the field. Stop the game. In football, where I used to be the quarterback, you can't have an extra person on the field, and in this case, in the marketplace, the government is supposed to be the referee. He's not supposed to get down on the field and play. This is where the referee is getting down and playing on one side for one special interest. Mr. Speaker, it's not fair.

"The problem is the Hippocratic Oath says: Do no harm to our families. Do no harm to our jobs. Do no harm to our economy. This really hurts the jobs, particularly the small guys. Particularly the Neighbor Islands. And Mr. Speaker, quite frankly, my wife cooks the best curry west of the Mississippi, but she also cooks the best bread. She said, what are you guys doing? I always freeze my bread to keep it fresh. There's no health reason whatsoever for what we're doing. So if it's not for health reasons, but it's to tilt the playing field, Mr. Speaker, we've got an illegal man on the field.

"The spirit behind this bill, Mr. Speaker, is the same protectionism that the government, when it took over or took favorite industries that we argued a few days ago on the Floor that lead to wars, trade wars, and then world wars. Mr. Speaker, this is not good policy. We can do better. We're Hawaii. We should seek excellence and not these petty 'bread wars' that we're going to start here. Thank you."

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

"Thank you, Mr. Speaker. In support. This is a 'truth in labeling' bill. That's all it is. And it's a dispute between the people that work at Love's and the Hawaii Food Industry. They're the ones who bring in all the frozen bread. They don't want anybody to know that their bread has been frozen. They sell it cheaper than Love's. That's fine. That ought to be the incentive. And so at the hearing, that's what we heard. We heard employees from HFA, many of whom quite frankly, supported the bill. We heard from the employees at Love's.

"Now I find it interesting that they keep throwing the Punaluu Bakery in my district in my face. Punaluu Bakery happens to be an ILWU house, and the employees support the bill. Thank you."

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

Representative Johanson's written remarks are as follows:

"I am in opposition to SB 1086. There was a large volume of testimony supporting and opposing this bill. I believe the most compelling piece of testimony was that of local bakeries and their employees, who will be significantly and negatively impacted by this measure. While I do understand and support the labeling of certain food products for health reasons, this measure is not a health-related change to the product packaging. Thus, I do not think it is worth potentially jeopardizing our local bakeries and their survival by advancing this measure."

Representative Pine rose, stating:

"Sorry. Just a point of clarification. This testimony from Punaluu Bake Shop is from the managing partner, Annie Kosa."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1086, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CONSUMER INFORMATION," passed Third Reading by a vote of 43 ayes to 8 noes, with Representatives Ching, Fontaine, Johanson, Marumoto, Pine, Riviere, Thielen and Ward voting no.

At 10:57 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1241, SD 1, HD 1
S.B. No. 809, SD 1, HD 1
S.B. No. 1332, SD 2, HD 2
S.B. No. 112, SD 1, HD 1
S.B. No. 1522, SD 2, HD 1
S.B. No. 41, SD 1, HD 1
S.B. No. 1086, SD 1, HD 2

Representatives Herkes and Keith-Agaran, for the Committee on Consumer Protection & Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1495) recommending that S.B. No. 975, 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. 975, 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."

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

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

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

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

Representative Hanohano 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. 975, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO APPRAISALS," passed Third Reading by a vote of 45 ayes to 4 noes, with Representatives Belatti, Fontaine, Luke and Saiki voting no, and with Representatives Har and Tokioka being excused.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1496) recommending that S.B. No. 229, 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. 229, SD 1, 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 strong support of this measure. Domestic abuse victims can face loss of their jobs at a time when employment and financial independence is critical. They are vulnerable and the consequences of physical and emotional pain are detrimental to their health and financial stability.

"The act of firing (or not even hiring) prohibits the victim from earning a living wage with which to support her children, lowers her confidence and inhibits her ability to further pursue employment, causes other potential employers to see her in a less positive light, jeopardizes the ability to maintain a place to live, increases the risk of depression and increases the likelihood of having to go on public assistance. Women retreat back to their abuser because they do not have the finances to leave. All of these negative effects only serve to re-victimize the victim.

"We are hopeful Hawaii can follow the footsteps of Illinois, New York City, Connecticut, Rhode Island and Westchester County in New York State who have enacted legislation to ban discrimination against a victim of domestic violence, sexual assault, or stalking. Other states have safety accommodations such as screening phone calls, allowing the employee to work in the back of the office with a lock on the door, etc. As of now, the time frame allowed to the victim is case by case.

"Leaving things the way they are is not an option. How many more cases do we need to review in order make changes? This bill offers protection and reassurance that the victim will have stable employment through tumultuous times. State legislation that models the previously introduced federal SAFE Act would enable battered women to seek safety while working towards financial independence."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 229, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT RELATIONS," passed Third Reading by a vote of 49 ayes, with Representatives Har and Tokioka being excused.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1497) recommending that S.B. No. 892, 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. 892, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SERVICE ANIMALS," passed Third Reading by a vote of 49 ayes, with Representatives Har and Tokioka being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1503) recommending that S.B. No. 48, 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. 48, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONS," passed Third Reading by a vote of 49 ayes, with Representatives Har and Tokioka being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1505) recommending that S.B. No. 1233, 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. 1233, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I'd like to ask for a ruling on a potential conflict. I work for a nonprofit that solicits funds from the public. Thank you, very much," 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. 1233, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE SOLICITATION OF FUNDS FROM THE PUBLIC," passed Third Reading by a vote of 49 ayes, with Representatives Har and Tokioka being excused.

At 11:00 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 975, SD 1, HD 2
S.B. No. 229, SD 1, HD 2
S.B. No. 892, SD 2, HD 2
S.B. No. 48, SD 1, HD 2
S.B. No. 1233, SD 2, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1508) recommending that S.B. No. 99, 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. 99, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

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

"Thank you, Mr. Speaker. In opposition and just a few remarks. This bill represents an increase of the number of Commissioners on the Public Utilities Commission. In this time of austerity, I don't think that this is a good example of growing government. If this is something that we should take a look at closely, I think what the Public Utilities Commission really needs is more staffing versus more executive level members at the commissioner level. Thank you, Mr. Speaker."

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

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 99, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC UTILITIES COMMISSION," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Belatti, Luke and Takai voting no, and with Representative Kawakami being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1509) recommending that S.B. No. 583, 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. 583, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CABLE TELEVISION SYSTEMS," passed Third Reading by a vote of 50 ayes, with Representative Kawakami being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1510) recommending that S.B. No. 651, 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. 651, 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 to speak in support of this measure which repeals the old non-judicial foreclosure. Mr. Speaker, a number of years ago I said to this Body that the non-judicial foreclosure bill was going to affect primarily the elderly who had worked their whole lives to be able to purchase their home. It set up a process where the court is not involved, which means that a lender could foreclose upon a home without the court ever being involved in that process, and the court being able to provide a fair forum for the homeowner. The rush to foreclosure measure puts convenience above fairness and equity in foreclosure proceedings.

"Mr. Speaker, I had those concerns a number of years ago when we were addressing that non-judicial foreclosure bill. I had made it clear I wasn't talking about lenders like Bank of Hawaii or First Hawaiian Bank. I was talking about the others on the mainland. Those concerns unfortunately turned true. We have the out-of-state lenders who have set up a foreclosure system that has resulted in chaos and a lot of harm to our local people. And I had concluded in this, I think when we pass this non-judicial foreclosure bill, we're going to set in process a motion that will prevent Hawaiian families and other families from being able to retain their homes.

"Mr. Speaker, the reason I am bringing up the past history today is that we are now undoing something that we never should have done. I'd also like to just say, Mr. Speaker, sometimes the Minority Members can call something the way it is and forecast what may be the result if we pass a bill. This is one of those examples and I would like to encourage the Majority Members to pay a little bit of attention to what we say from time to time because it really could carry a great deal of weight and become true.

"So today we are undoing something we never should have passed, and I would like to reference my comments in the Journal those years ago when we did first pass the non-judicial foreclosure, where I said that was the wrong thing to do and we shouldn't do it. And today that has become true. Thank you."

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

"Thank you very much, Mr. Speaker. May I have a ruling on a potential conflict? On both Stand. Com. Rep. Nos. 1510 and 1511, my family's currently undergoing a remodification with a lender. Thank you very much," and the Chair ruled, "no conflict."

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

"In strong support of Stand. Com. Rep. No. 1510. I would like the words of the previous speaker, except for the Minority part of it, entered into the record as if they were my own. Hey guys, I'm a D. And also just a few comments.

"Mr. Speaker, what we're trying to undo is a travesty of history which has occurred where we're the only state to adopt two separate non-judicial foreclosure tracks which puts the power solely in the hands of the lender to choose, and all the protections of which lay in Part II to which the homeowner has to sign off on the final non-judicial.

"Not the mention 667-34 and 35, and I bring this up again for the Member's edification as we go in to Conference because the rumblings of the other Chamber disturb me in wanting to preserve this two-track system. If these two are allowed to stand, Mr. Speaker, basically what it is, says in a nutshell is, if you don't object within 30 days to a non-judicial foreclosure auction, many of you won't even know about it considering it'll be in a newspaper nobody subscribes to, then that non-judicial foreclosure will have been deemed to being done completely above board in good faith without fraud or any type of illegal activity. That is the biggest 'get out of jail free card' I have ever seen in my life, Mr. Speaker.

"This cuts very deep, Mr. Speaker, because as you know, we're talking about the economic integrity of the State of Hawaii. As the good *kanaka maoli* have often said, the life of the land is preserved in righteousness. And if we don't have land, if our homeowners, those who are working hard with two and three jobs, can't just get a fair shake, can't get a lender to come with one voice to them and deal in good faith, then we're looking at the entire unraveling, Mr. Speaker, of our way of life and indeed the integrity of the State of Hawaii.

"So, Members, I appreciate your support on moving this forward and stay strong in Conference because what we're doing today is to rectify the

wrongs that have been visited upon on us by entities that aren't even within a thousand miles of this good State. Thank you, very much."

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

"Mr. Speaker, I'd like a ruling on a possible conflict on both Stand. Com. Rep. Nos. 1510 and 1511. The practice of my law firm includes foreclosures. Thank you," and the Chair ruled, "no conflict."

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:

"I would like to express my support to SB 651 SD2 HD2, which would establish a temporary mortgage foreclosure dispute resolution program, as well as implement recommendations of the mortgage foreclosure task force relating to conversion from non-judicial to judicial foreclosure. SB 651 SD2 HD2 would also strengthen the laws regarding mortgage servicers, as well as repeal the old non-judicial foreclosure process, as well as strengthen and clarify the new non-judicial foreclosure process.

"The issue of foreclosure has plagued our islands since the beginning of the economic crises of our nation. In 2010, Hawaii's properties affected by foreclosures have jumped 38% from 2009 resulting in over 12,400 properties. I have received numerous phone calls from constituents desperately seeking assistance regarding foreclosures, many of which have already faced eviction.

"I believe that SB 651 SD2 HD2 will create additional measures necessary to protect individuals from further vulnerability through its dispute resolutions program. This dispute resolution program will require mortgagees to offer dispute resolution to owner-occupants before conducting a public sale on a property, notify mortgagors that dispute resolution is available, and notify mortgagors that the mortgagee is required to participate in dispute resolution if an owner-occupant so chooses.

"It is up to us to help promote legislation that helps support our constituents from the predatory lending practices of financial institutions that have led to this foreclosure disaster. It is for the above mentioned reasons that I support SB 651 SD2 HD2."

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

"Support with one reservation I'd like to identify. Thank you. This bill has come a long way. It's getting quite a bit better and there's a lot of good work that needs to happen in this in the next bill.

"The concern I have for this specific bill is the meditation. It has a potential to become an endless meditation, and that will not ultimately serve anybody. So in Conference I hope that we can tighten that up and have a meditation process that does have some finality to it. Thank you."

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

"Thank you, Mr. Speaker. A couple of notes. This bill does not, does not, get rid of the non-judicial foreclosure law. It severely amends it. This reform is designed to allow mortgagees to use a fast track, non-judicial foreclosure process if, and only if they can demonstrate up front that they have the legal authority to do so. They must also proceed with due notice on the borrower and participate in good faith negotiations to modify the loan and to reach some other settlement.

"In this bill the judicial foreclosure process remains in large part, not affected. As far as the Alternative Dispute Resolution we continue to work with both the Chief Justice and Judiciary and the DCCA. They came in to us quite late with a whole new process for Alternative Dispute Resolution to get the mortgagee and mortgagor together with hopes of some settlement. And quite frankly, if there is no reason for the choice of the mortgagee, the mortgagor has no ability to service a loan at any case and they ought to proceed with the foreclosure.

"So this bill is very complex, as you know it's like 74-pages long. We are still working on parts of it. One of the problems that I think we will have in Conference is that, my understanding is the Senate does not want to modify the non-judicial parts of the law, which we think is necessary. Thank you, Mr. Speaker."

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

"Mr. Speaker, may I have a ruling on a potential conflict. My law firm does some foreclosure actions, but I don't do any of that type of work. Thank you," and the Chair ruled, "no conflict."

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

"I rise in support with some small reservations, and I wanted to incorporate the words of the speakers from Kailua and the North Shore as my own," and the Chair "so ordered." (By reference only.)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 651, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE FORECLOSURES," passed Third Reading by a vote of 50 ayes, with Representative Kawakami being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1511) recommending that S.B. No. 652, 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. 652, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

" Thank you, very much. Mr. Speaker, may I have a ruling on a potential conflict? On both Stand. Com. Rep. Nos. 1510 and 1511 my family's currently undergoing a remodification with a lender. Thank you very much," and the Chair ruled, "no conflict."

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

"Mr. Speaker, I'd like a ruling on a possible conflict on both SCR 1510, 1511. The practice of my law firm includes foreclosure. 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. 652, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE FORECLOSURES," passed Third Reading by a vote of 50 ayes, with Representative Kawakami being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1513) recommending that S.B. No. 150, 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. 150, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

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

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

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

Representative Johanson 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. 150, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO BUILDING DESIGN FOR PERSONS WITH DISABILITIES," passed Third Reading by a vote of 50 ayes, with Representative Kawakami being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1514) recommending that S.B. No. 240, 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. 240, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you. A potential conflict ruling, please. My grandson is at the Medical School. Thank you," and the Chair ruled, "no conflict."

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

"May I have a ruling on a possible conflict. My husband is a physician," 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. 240, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PHYSICIAN WORKFORCE ASSESSMENT," passed Third Reading by a vote of 50 ayes, with Representative Kawakami being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1517) recommending that S.B. No. 1300, 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. 1300, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you. In support, Mr. Speaker. I'll just be brief. I think this is a good bill and it moves us in the right direction. But I also think it begs the broader question for this Body of structural and financial reform that needs to be happening at the Hawaii Health Systems Corporation. 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. 1300, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION," passed Third Reading by a vote of 50 ayes, with Representative Kawakami being excused.

At 11:12 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 99, SD 2, HD 1
S.B. No. 583, SD 1, HD 2
S.B. No. 651, SD 2, HD 2
S.B. No. 652, SD 2, HD 1
S.B. No. 150, SD 2, HD 2
S.B. No. 240, SD 2, HD 2
S.B. No. 1300, SD 2, HD 2

At 11:12 o'clock a.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:17 o'clock a.m. with Vice Speaker Manahan presiding.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1518) recommending that S.B. No. 1458, 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. 1458, SD 2, HD 3, pass Third Reading, seconded by Representative Evans.

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

"As my Caucus is about to debate each other on this bill and they're not here, I will stall for them. Mr. Speaker, I just want to stand in opposition."

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

"Thank you, Mr. Speaker, I rise in opposition to Senate Bill 1458, Senate Draft 2, House Draft 3. Mr. Speaker, I rise in opposition to this bill which creates a pilot program for medical marijuana.

"First of all, I believe that passing this bill is unwarranted, it's premature, and the fact is that the federal law has not changed, and the selling and use of marijuana is still illegal. The Department of Public Safety testified that a white paper written about the subject stated that clearly policies and procedures are being developed to address the issues of access, distribution, and security with regard to the medical use of marijuana. However, these policies and procedures appear to be at a very early stage of development and do not as yet provide an established model with a proven ability to successfully address these issues. Seeing how they develop, how they approach the obstacles they are likely to encounter, what methods are successful versus what methods prove problematic, will no doubt prove informative and valuable in determining how Hawaii chooses to address the issues of access, distribution and security with regards to its own medical marijuana program. Mr. Speaker, this tells me that this is premature.

"In addition to this, the Department of Public Safety noted that storefront marijuana businesses are prey for criminals and create easily identifiable victims. The people growing marijuana are employing illegal means to protect their valuable cash crop and others distributing marijuana to the businesses are perfect targets for thieves and robbers. They are being assaulted, robbed and murdered. Those buying and using medical marijuana are also being victimized.

"Public Safety also asked, why are we doing this? Is it for compassion? If it is, then why such a high fee? If it is to raise revenue for the State of Hawaii, then it should be noted that the additional revenue would not even come close to offsetting the additional cost associated with increased use.

"The two legal substances which are already highly taxed prove this point. Taxes on alcohol account for $14.5 billion in revenue, but alcohol abuse costs us $185 billion. In the case of tobacco, taxes account for $25 billion, but the cost to society is $200 billion.

"In sum, Mr. Speaker, Hawaii is a beautiful and healthy place to live. So why do we want to jeopardize that reputation, that branding in tourism, by becoming known as a drug capital. Hawaii is already ranked fifth in the nation for meth use and that is the sad reality. Mr. Speaker, 30% of our high school seniors have admitted to trying marijuana. These compassion centers will make it even easier to get. And in the Public Safety's testimony they noted that a white paper by California Police Chiefs Association said that the problems with these dispensaries were sales to minors, loitering, an increase in crime, increase in foot traffic, etc. Do we really want this for Hawaii? Or do we want a better healthier Hawaii full of vitality? For these reasons, I respectfully oppose this measure.

"We just recently spoke about what I referred to as, the faucet. There are so many better ways to be healthy. So many better ways to be healthy in our mind and our body. Let's not forget one of the greatest nations ever at the time it was powerful, was brought down by opium. China was brought down by opium. At that time it was the oldest civilization. It was brought down. Do we need this? Do we really want that kind of reputation? We don't need it. We've got other things that are healthy.

"And when I walked around in San Francisco when I was visiting there just recently, it's amazing. Gee, I guess there are that many people who are not well or are ill. You can smell it all over Union Square. You go up the street, and you walk up Geary. You walk up any of those streets and you smell marijuana everywhere. Thank you, Mr. Speaker."

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

"Yes, Mr. Speaker. I rise in opposition as well. And in the interest of time I'll have the words of the previous speaker entered as my own. But I would also add that law enforcement across the State is against this measure. And I also worry about the unintended consequences of going down this slippery slope. Where we are actually going to create in our State the kind of environment that we are going to be in if we start allowing more and more of these kinds of dispensaries to show up. Thank you."

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

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

"In support, Mr. Speaker. I think that we have been discussing this medical marijuana issue for the last four years in this Chamber and I think it's about time to at least give the pilot program a chance, so we can see if it works or if it has devastating consequence for our State. I think we should try it is to see what it is because I've been hearing a lot of pros and cons about the issue. And furthermore when it's the proper time, I would like to name this compassion center the Joe Bertram III Compassion Center. Thank you."

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

Representative Hanohano's written remarks are as follows:

"Mr. Speaker, I rise in support for this comprehensive five-year medical marijuana distribution pilot program in an unspecified county. It is refreshing to see the change in my colleagues' beliefs. This bill will assist qualified patients and caregivers to have safe, legal and reliable access to medical marijuana. This is a bold, humanitarian bill.

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

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. When we are facing economic challenges and cutbacks in our Public Safety Department, now is not the time to exacerbate an already difficult situation and expect a positive outcome. Hawaii, Honolulu, and Maui County Police Departments oppose this measure – for good reason. The State of California is facing a huge battle with these so called "Compassion Centers". There are many abuses taking place. The undesired consequences of these centers have turned into legalizing illegal substances. Let's learn from California's hardships. For these reasons, I oppose this measure. Thank you, Mr. Speaker."

Representative Har 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 Har's written remarks are as follows:

"Mr. Speaker, I rise with reservations. To be clear, I support chronically ill patients who have found that medical marijuana is an effective means of managing chronic pain and other symptoms.

"My main concern, however, arises because this bill cannot supersede federal law, which still classifies marijuana as a Schedule I controlled substance. I am troubled by the prospect of placing federal law and State law directly at odds. In jurisdictions that have passed laws on medical marijuana, complications have arisen because of these conflicts. When the State attempts to pass laws that are rendered moot by the federal law, federal law supersedes and essentially abrogates state law.

"Even if we pass laws at the State level, the prospect of prosecution for any medical marijuana user at the federal level remains. For these reasons I stand with reservations. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In support. I would like to submit written comments. I believe that a society that is forward thinking and mature needs to provide all natural medicines to people. This could be an important export crop for Hawaii. And while there will be growing pains, this is something that I think we need to do as a start. And may I have the thoughts that the Representative from Kailua is thinking right now entered into the Journal as if they were my own."

Representative Brower's written remarks are as follows:

"I rise in support of the five-year medical marijuana distribution pilot program. This is about reasonable, herbal remedies for health. This can be an important export industry for Hawaii, generating revenue for our state while giving residents new health management options.

"We know it can go wrong, but we must be vigilant. The following safeguards contained in the current version of the bill may help control abuses (and other unintended consequences):

- Authorizes the Department of Public Safety (PSD) to conduct criminal history record checks on applicants for compassion care center licenses.
- Authorizes PSD to convene a task force to study and advise in the drafting of PSD's Administrative Rules for the pilot program
- Allows for Temporary registration certification for out-of-state visitors who are qualifying patients or primary caregivers in their home state to obtain medical marijuana.

"Since it is a pilot project, we can assess its effectiveness and make changes along the way, where needed. Or eliminate it entirely, if it proves to be unsuccessful. For these reasons, SB 1458 deserves a chance. Mahalo."

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

Representative M. Lee rose in opposition to 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 with strong reservations to this measure because of professional issues, and also the history of marijuana or "compassionate care" dispensaries across the mainland of the United States.

"As a registered nurse for over 40 years, I have cared for many patients with terminal, life threatening and painful conditions. Years ago, there was little available to ease severe pain and nausea. Patients suffered greatly. Today, the administration of pain medications is a science that is quite advanced. It is not unusual for patients to be ambulatory in the

community with such devices as a morphine pump which keeps them comfortable during their daily routine. Medications which control nausea have advanced as well. These are given in controlled amounts and in doses that do not render the patient unable to function.

"Marijuana has been a popular alternative to traditional medicine; however smoking it has both safety and regulatory concerns attached. Smoking cannabis is similar to smoking tobacco – there may be damage to the lungs, potential for severe burns if the patient falls asleep in bed while smoking, property damage from fires, loss of capacity to drive and carry out ADLs and exposure of family members to second hand smoke. Marijuana is also widely used as a recreational and street drug. Some feel it is a gateway drug, and from all reports, the strength of what is available is increasing.

"I have other concerns related to the proliferation of dispensaries in states such as California, Colorado and Montana. For the most part, these establishments are simply "restaurants" which offer a wide variety of doses, flavors and prices to their clients. The "scene" on the Internet is quite colorful and many ads clearly proclaim the virtues of marijuana use for recreational purposes.

"Cities have found that organized crime loves these establishments, which often have more than marijuana on the menu. In Montana, on March 11, 2011, a major raid was conducted by federal law enforcement agents on many of these establishments, despite the fact that the Obama Administration has stated they would not seek to punish marijuana users.

"Mr. Speaker, the bill before us is complicated and flawed. It makes use of resources we can't afford such as monitoring by police, expensive photocopying requirements, a database, live video feed to police station, and on and on. It almost seems as if this draft is asking to be killed.

"No one wants to take away a remedy from people who really need it. I believe we need to find another way to make the substance available to truly needy patients, but this is not the way. This is a medical issue. The Department of Health and prescribing physicians should be involved to set a standard of care, dosing recommendations. Organizations like the Cancer Society and the Lung Association need to come out of their safe zones and make recommendations as well.

"Even though this is just a pilot, I believe we risk seeing rows of marijuana "shops" in the near future in Waikiki if we should we pass this bill."

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

Representative Jordan's written remarks are as follows:

"Medical cannabis dispensaries are essential to support the acquisition of medical marijuana in a method that does not promote illegal drug trafficking. Act 228 of the 2000 Session Laws of Hawaii legalized the use of medical marijuana by critically ill patients in Hawaii, but provided no safe provisions for the access to their medicine. Senate Bill 1458, SD2, HD3 explores solutions to this problem, providing a pilot dispensary program which gives the critically ill a safe manner to obtain treatment. Additionally, the bill could generate significant State revenues, with license fees and excise tax collections. I am in support of SB1458, SD2, HD3 for the fiscal benefits it will provide to the State of Hawaii and a legal avenue to purchase prescribed medicine."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1458, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 40 ayes to 11 noes, with Representatives Awana, Ching, Choy, Fontaine, Johanson, M. Lee, Marumoto, Nakashima, Pine, Tokioka and Ward voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1520) recommending that S.B. No. 1383, 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. 1383, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL REPAIR AND MAINTENANCE," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1521) recommending that S.B. No. 1385, 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. 1385, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

Representative Awana 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 Awana's written remarks are as follows:

"Mr. Speaker, I rise with support, but at the same time, I have a few reservations. The Department of Education should not be in the business of land development. As we are all aware, this Department uses over half of our State budget. My concern is that with this pilot project, more funds will be requested to carry out this measure.

"A three-year pilot is not enough time to develop housing as we all know. Should a business decide to embark on such a project located on public school lands and having invested time and money, they will be faced with uncertainty should this project end. This leads me to believe that not much will take place within this relatively short time frame.

"Furthermore, some of those lands are not State lands. The DOE should release these lands back to its original owner or governmental agency. The cost to maintain those properties will no longer be needed within the DOE. Monies saved could help pay for school bus service, books, lunch and other essential items for our *keiki*. For these reasons, I stand 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. 1385, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SCHOOL LANDS," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Kawakami voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1522) recommending that S.B. No. 1503, 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. 1503, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL EDUCATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1523) recommending that S.B. No. 298, SD 3, 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. 298, SD 3, HD 3, pass Third Reading, seconded by Representative Evans.

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

"Thank you, in support with some reservations. On its surface I think this particular measure is a very creative idea, and I also recognize the fact that it is trying to pursue very worthy aims by promoting social corporate responsibility.

"The reservations that I have about this measure are just that in doing so, I think we are exploring territory that does need to be explored, but puts businesses potentially in an awkward hybrid plane of not necessarily being completely profit driven or nonprofit driven. It's not necessarily a bad thing to create another designation for entities that really are trying through their business purposes to achieve social good or environmental good for the broader society, but I do think in some respects it's a bit problematic unless those aims reconcile with either a profit motive or a non profit motive. So as this bill moves forward, I guess I'd just like to see how it develops. Thank you."

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

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

"Mr. Speaker, with reservations and a brief comment. Mr. Speaker, this bill says that some corporations are created more equal than others. This essentially creates do-good corporations environmentally, which is very well taken in the nonprofit sector of which there are 7,000 in the State, and have done a very, very good job.

"This one however, goes to the extreme of saying that if you are a board member or an officer, you will not be held liable. Generally speaking, liability is a fact of life for all of us. We're all liable to friends, spouses, families, corporations, Majority leaders, Minority leaders, all of these kinds of things that occur in life. But in this corporation we're going to say if you're a board member or you're an officer, you don't have to be liable because you're going to do good.

"Now what if you get corrupt people in do-good corporations? The human element is, they're going to use this to their advantage. So what is the advantage of this? I'm not really sure, Mr. Speaker, except it may encourage people to do good stuff. But we've got a great private sector out there that's doing good stuff, and why do we need this for the potential of changing a very good business code and codification of ethics. Why we want to do this, I'm not really sure. So with that, Mr. Speaker, very strong reservations. 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. 298, SD 3, HD 3, entitled: "A BILL FOR AN ACT RELATING TO BUSINESS REGULATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1524) recommending that S.B. No. 1161, 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. 1161, SD 1, HD 3, pass Third Reading, seconded by Representative Evans.

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

"Just in support with some reservations and some comments. Yes, thank you, Mr. Speaker. I do want to thank the Finance Committee for amending this bill in a way that improved the bill. I've been watching this bill for a while because it would have affected my community, because what it would have done is exempt a person or entity from any requirement to upgrade, or replace existing utility poles when using the pole to install new or improve existing telecommunication cables. And so I'm very happy that the Finance Committee added safety and engineering requirements which made me originally opposed to the bill.

"I'm sure many people in the Body remember what happened to us at Ewa Beach on March 4th, where we suffered a massive power blackout because the wind and the rain had knocked down 22 utility poles on Fort Weaver Road. And 15 of them blocked our ability to get into Ewa Beach.

"Some of my reservations still on this bill. I know that we still have Conference Committee so this is why I'm mentioning it now, is the new draft of SB 1161 of the bill which requires that telecommunications and broadband installations or improvements not make any significant changes to the existing public rights of way. The bill does not include underground utilities, and this is where it would affect my newer communities. Many telecommunication and broadband infrastructures are in the form of underground cable and conduits.

"The City and County Department of Planning testified that without the permitting process to keep us currently aware of where the underground utilities are, digging up a patch of ground to install or improve telecommunications could well dig up other underground utilities, be those water, sewer, electrical, gas, or even other telecommunication broadband conduits.

"And so I hope as this bill goes along we can perfect it even more and include those underground utilities as being part of the process."

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

"Thank you, Mr. Speaker. I'm standing in support with reservations. A brief comment, Mr. Speaker. This measure currently looks at providing an exemption from all the requirements of Chapter 171, HRS. Mr. Speaker, there are some concerns regarding these easements and the right of way, and how those adjacent lands situated next to them would be affected.

"Mr. Speaker, I also would like to note that the Office of Environmental Quality Control of the Department of Health opposed this measure and felt that trying to piecemeal amendments to Chapter 343 was not in the best interest of the environmental protection intent.

"Mr. Speaker, I also note that this exemption has been an issue in many communities. I understand that it's a need in the rural areas. However, as we proceed forward, I think those issues need to be considered. Thank you."

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

"Thank you very much, Mr. Speaker. In support. Mr. Speaker, Act 2, Special Session, 2007 created the Broadband Task Force, which asked the questions: Why is broadband important? What are other states doing? And what are other counties doing?

"The Task Force noted that the United States is 15th in the world in broadband speed, when telecommunications was once ours and we lead the nation. Hawaii is at the bottom of all the states in the Union as far broadband speed goes. The infrastructure needed for us to catch up with the rest of the world is estimated to be close to a billion dollars. Other countries that have these types of world-class speeds, the nation or the federal government or their equivalent pays for that infrastructure. We in Hawaii are not a country and we cannot afford to pay for these types of things.

"The private sector has stated that they want to invest in our State, however the reason why they hesitate is because of the time it takes to go through the permitting process. They would rather invest in other states. So this measure is saying to them, 'Okay, if that's what it takes for you to invest in our State and we can't afford it, we're going to clear the way for you. Come in. Put it in, And we'll review it at the end of this process, and decide whether to extend it, to modify it, or whatever needs to be done.'

"Mr. Speaker, Section 3 of the bill refers to utility poles. This is an important component for the $35 million ARRA grant that will connect all public schools and libraries. Without this mechanism in place it may not be possible for us to utilize this $35 million grant. What needs to be noted also is that the $75 million Race to the Top ARRA grant is dependent upon online testing, which is also critical for this grant. So for those reasons and many others, I stand in support. Mr. Speaker, Thank you."

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

"Thank you, Mr. Speaker, I rise in strong support and ask that the words of wisdom from our Representative from Makawao be entered into the Journal as if they were my own. And I'd also like to add additional written comments. Thank you."

Representative Awana's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in strong support. If there is one measure that needs to move forward that expedites a process, it should be this one. As I understand, there is also a House measure with similar language.

"The United States is slipping from the rankings of high speed broadband technology throughout the world. Why is this relevant? Technological infrastructure will help us compete with other neighboring countries. These advancements will assist in all areas: education, tourism, business, economic development and trade to name a few.

"At an NCSL meeting comprised of the Black, Hispanic, Asian and Native American Caucuses, we voted in support of broadband infrastructure. As minorities, we know that these improvements will provide opportunities and open doors. Hawaii being a state with a majority of minorities, I ask for your support on this measure. Thank you, Mr. Speaker."

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

"Mr. Speaker, in support. Mr. Speaker, we are not a third world country. This bill sets the bar up where we should be, world class. And may I have the words of the Representative from Maui as my own. Thank you."

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

"Thank you very much, Mr. Speaker, in support. And I would just like the words of the Representative from Ulupalakua entered into the record as if they were my own.

"And if anybody wants to see a visual graph of this reality, please come by my office. I've had it on my wall for about three years now since the broadband ARRA money announcement was made by the previous Administration showing that we have the highest prices and the lowest speeds of any of the industrialized nations in the Pacific Rim. Thank you, very much."

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

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

"Thank you, Mr. Speaker. In strong support and permission to insert written comments please."

Representative Nakashima's written remarks are as follows:

"Senate Bill 1161 would exempt broadband infrastructure improvements from State and county permitting requirements. As we face opportunities to improve broadband infrastructure and federal regulatory mandates to narrow band our first responder communications, it is important to allow these infrastructure projects to move forward uninhibited by numerous governmental permitting requirements that would prevent broadband opportunities for isolated and rural areas of our State."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1161, SD 1, HD 3, entitled: "A BILL FOR AN ACT RELATING TO TELECOMMUNICATIONS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1525) recommending that S.B. No. 1355, 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. 1355, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I wish to speak in opposition to this measure. I'm opposed to Senate Bill 1355, Senate Draft 1, House Draft 1, relating to taxation. The bill establishes for GET purposes a nexus or a connection between businesses in the State, and out of State businesses that engage in or solicit business with persons within this State. It gives out of state businesses that conduct business in Hawaii the option to: one, collect the GET; or two, file an annual statement with the Department of Taxation regarding sales of tangible personal property to Hawaii residents. This annual report will include the names of those persons to whom the sales were made, their addresses and amounts, among other items.

"Currently businesses with no physical presence in the State are not taxed. We have no jurisdiction to tax businesses in other states. Instead, Hawaii purchasers are supposed to pay a Use Tax for out of state purchases. And since most people are unaware of the law, this bill is an attempt to get the out of state businesses to help DOTAX collect the Use Tax by providing information on Hawaii sales and information on Hawaii people.

"But this bill may be illegal. The US Supreme Court cases have held that a state cannot impose a sales use tax collection obligation on out of state vendors unless those retailers have a physical presence in the taxing state. I cite, Quill Corp vs. North Dakota. A recent Colorado case has upheld this, as well against the Colorado Department of Revenue.

"I think it's ridiculous to assume that an out of state vendor is supposed to help DOTAX collect use taxes. Out of state businesses do business with many jurisdictions, and forcing them to collect and provide information on their customers in various states would be a burden. This would be especially difficult for smaller businesses that don't have large staffs.

"In addition, there are issues of consumer trust and privacy concerns that are raised by having out of state businesses provide this information to DOTAX. To have a third party give personal information to a government agency raises privacy concerns and may have consumers up in arms. Therefore, as you can tell, I am opposed to Senate Bill 1355. Thank you."

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

"Thank you, Mr. Speaker. In strong support. There was some advertising on this bill in the last couple of days, so I'm not going to go into the details, but let me just highlight some facts. First of all, this is not a new tax. People who make out of state purchases have to pay a use tax. This is also not an increase in tax since they're already supposed to have paid it.

"Mr. Speaker, this is also an equality issue. The 'brick and mortar' stores, the stores that establish themselves in the State of Hawaii who have employees that support our community, that support our tax system, collect these particular taxes. Why shouldn't Internet purchases, when you buy something over the Internet, also collect taxes for us?

"Mr. Speaker, we wouldn't be talking about this particular problem if it wasn't growing. And you know that more people are making purchases online. And more and more revenues are being lost. So it's really not fair to the stores that are here in the State that are collecting our taxes.

"I too have read the court cases, the preliminary injunctions for Colorado, and I don't think that those particular cases are on point, especially to Hawaii. All those cases pertain to a sales tax and we don't have a sales tax here. We have an excise tax. The difference being that a sales tax is levied on the buyer. An excise tax is levied on the business. So

if this particular bill is illegal, it's time to test it. It's time to test it under our taxing scheme.

"And finally, Mr. Speaker, I realize that in these times any little tax increase will be opposed. And I understand that. Everybody's having a hard time. But not paying your tax liability is cheating. Cheating on your taxes is not, and should not be a tax planning tool. And it cannot be tolerated in our voluntary compliance tax system that we have in Hawaii. So for those reasons, Mr. Speaker, I stand in strong support of this particular measure. Thank you."

Representative Marumoto rose to respond, stating:

"Thank you, Mr. Speaker. I do appreciate the words of the Manoa Representative. He makes a good point. He feels that these court cases were based on sales taxes and those are on the buyer as he said. Our general excise tax is supposed to be paid by the seller. It's a tax for the privilege of being in business. And so we cannot tax an out of state seller. We do not have jurisdiction through our excise tax structure. So I do not see how we can possibly have jurisdiction over these people to force them to provide us information. They may do so as a favor to us.

"But he is correct in saying this is not a new tax, and this is not a tax increase. This is our existing use tax. So I would suggest that we educate more people, citizens in this State, that when they do make purchases out of state that they do pay their use tax, especially if the items are over $100. So I will rely him on start an educational campaign. Thank you."

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

"Mr. Speaker, I rise in opposition. Mr. Speaker, a rose by any other name is a rose. This is a money grab. It's a tax on the Internet, plain and simple. Fortunately we have an interstate Commerce Clause that keeps the Representative from Manoa from doing what he's proposing to do. That's so one state is not pitted against the other. And of course we want to feel for the 'brick and mortar' of those who are in the State.

"However they have the option of going on the Internet. We get 7.5 million people here a year. If you want to keep them as customers, you keep an association, you sell the products that made them happy while they're here, on the Internet. Equal playing field.

"That's why the interstate commerce got out of this kind of pitting one state against the other. They used to in the granger days, they put up a fence. You can't cross from this state, to the other state because you have to pay a tariff. We've gotten away from that. In fact we're doing it, contrary to some people on the Floor here, internationally. We want to do free trade.

"But, Mr. Speaker, let me focus the last part on what Americans value very, very strongly, and that is privacy. This, if there's a Hippocratic Oath about do no harm to privacy, this is big time. This is every time you purchase something on the Internet, the provider on the mainland has to give the name, the amount, and your zip code. No, that was the earlier version. The new version name, address, amount and zip code.

"Now what if we have somebody of prominence who is undergoing cancer or some other disease that no one should know about. Yet by revealing what they're purchasing from that particular company, their privacy is totally invaded. Or something maybe a little more risqué, sexy lingerie and you're here out publicly. You bought sexy lingerie. What are you doing in your position of responsibility? You should not be doing that. This is an invasion to the basic values of privacy that Americans hold very, very dearly.

"If we are so hard up for money to tax the Internet, to want to out everybody about everything that they buy, I think we're going to extremes. Let's fix the economy. Let's grow the economy. Let's not money grub with what we're doing in this bill. Thank you."

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

"Mr. Speaker, I rise in support. Just a couple of points that need to be made. I believe the Retail Merchants of Hawaii would appreciate us passing this measure. The Retail Merchants of Hawaii is a not for profit trade organization representing about 200 members and over 2,000 storefronts who are 'brick and mortar' retail establishment. It is about fairness, Mr. Speaker.

"And just another note from the Department of Taxation, the revenue impact for this bill would be similar to the revenue impact of a streamlined sales tax which is the federal measure that's being considered by several states. For this measure the revenue impact is indeterminate, but could provide between $25 and $30 million per year. Thank you, Mr. Speaker."

Representative Choy rose to respond, stating:

"Thank you, Mr. Speaker. Just to be really, really brief. And just to rebut the statement from the Representative from Waialae. I agree with, her but we have to remember that the GE Tax is a privilege tax for doing business in our State. The sales tax again is a tax on the purchase of goods.

"As a business person in the State of Hawaii, I pay a GET for the privilege of doing business in this State. When you sell something to somebody in this State, shouldn't you also be paying the same amount of taxes? So again, that could be a legal question that has to be looked at, but this bill is the beginning of that particular process. Thank you, Mr. Speaker."

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

"Thank you, I rise in opposition to this measure. First of all, I'm not arguing against use taxes, nor suggesting that consumers should not meet their obligations under State law to remit this tax, much as we do with property taxes or licensing fees, or any number of other moneys owed to the State. Instead of reading all of this, I just wanted to point out just a few things and insert the rest into the Journal, Mr. Speaker. Thank you.

"Notwithstanding the federal court decisions regarding nexus, there are privacy considerations, and I want to re-stress this because I think it's very important. First of all, no business should be required to report the buying histories and habits of its customers. Information customers assume to be private. People purchase online for a variety of reasons and many times the type of products being purchased may be known just from the name of the business.

"Senate Bill 1355 is an unprecedented invasion of privacy that most consumers will not appreciate. In fact I remind the Members that we should not forget, just recently the University of Hawaii, I believe it was West Oahu campus, had a release of information, sensitive information, that included myself and other Members here.

"And for supporters of the bill who argue that it's about fairness and a level the playing field, consumers really turn out to be the biggest losers. Remember, consumers pay the tax, not businesses. Business only collects the tax. And as we had seen in other states, if we pass this bill, we can expect that online retailers will terminate their affiliate relationships in Hawaii, thus eliminating any nexus with the State.

"Internet firms don't use or benefit from government services in the same way, or at the same level as any of our local businesses. And it's a tremendous undue burden to require Internet firms to comply with more than 7,500 separate tax jurisdictions around the country. A burden that 'brick and mortar' companies here in the State are not required to share.

"And the most important influence on State tax revenue and for curing our fiscal crisis is to foster economic growth, and this bill does not do that. Thank you, Mr. Speaker."

Representative Takai's written remarks are as follows:

"Mr. Speaker, I rise in opposition to this measure. Nobody is arguing against use taxes nor suggesting that consumer should not meet their obligations under State law to remit that tax, much as they do with

property taxes or licensing fees or any number of other monies owed by citizens to the State.

"Like many revenue generation and cost cutting initiatives we've debated this year, SB 1355 or the "affiliate nexus" bill has a number of unintended consequences such as costing the State money to implement the program.

"We could face costly federal litigation trying to defend the program. We WILL lose revenue currently realized by local tax-paying online companies.

"We WILL subject Hawaii companies which rely on Internet sales to the "taxing arms race" when Hawaii businesses are forced to comply with tax laws from other states.

"We WILL jeopardize taxpayer confidence in the State's ability to keep the purchasing habits of residents safe and secure as hackers are tempted to access the data base of information. Let's not forget the University of Hawaii fiasco.

"In the end – We WILL NOT generate any new tax revenue for the State from Internet sales. Instead, we will weaken our State's economic recovery efforts, as well as certainly raise concerns as more citizens learn about our government's attempt to collect and stockpile their buying histories.

"More than forty-years of established federal law is very clear: the states cannot burden businesses with tax collection responsibilities if they have no physical nexus in the state.

"In January, Colorado Federal District Court Judge Robert Blackburn issued a preliminary injunction enjoining the Colorado Department of Revenue from enforcement of a similar law. By requiring out-of-state marketers to report customers' purchase histories to the Department of Taxation, SB 1355 imposes upon out-of-state retailers the very burden the Federal District Court determined was unconstitutional.

"So, under current federal law, neither collecting sales tax, nor filing a report can actually be required of remote sellers.

"While use taxes are owed by Hawaii residents, that tax relationship is between the taxpayer and the State; remote sellers should not be conscripted into the process.

"Notwithstanding the federal court decisions regarding nexus, there are privacy considerations that continue to make the bill troubling. No business should be required to report the buying histories and habits of its customers – information customers assume to be private. People purchase online for a variety of reasons and many times the type of products being purchased may be known just from the name of the business.

"SB 1355 is an unprecedented invasion of privacy that most consumers will not appreciate.

"For supporters of this bill who argue that this is about "fairness" and "leveling the playing field", consumers really turn out to be the biggest losers. Remember - consumers pay the tax – not businesses. Businesses only collect the tax.

"As we have seen in other states, if we pass this bill, we can expect that online retailers will terminate their affiliate relationships in Hawaii, thus eliminating any nexus with the State. Internet firms don't use or benefit from government services in the same way or at the same level as our local businesses.

"It is a tremendous undue burden to require Internet firms to comply with more than 7,500 separate taxing jurisdictions around the country ... a burden that "bricks and mortar" companies are not required to share.

"The most important influence on State tax revenue and for curing our fiscal crisis is to foster economic growth. This bill does not do that. Thank you."

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

"Yes, thank you very much, Mr. Speaker and Members of the House. I speak very strong for this measure and I wish to congratulate the author of this very ingenious bill. Certainly it's a test, but if it can work, it will give us another stream of income which we badly need in the State. As we all know, we simply don't have enough revenue to maintain all the services and programs that we have. And this is another attempt.

"I'd also like to mention that it will help businesses. Right now, businesses are losing over $30 to $40 million a year in purchasing through the Internet. All these small little businesses are certainly not getting any wealthier with the citizens of Hawaii using the Internet more and more for their purchase of goods. It means less sales for our local businesses, and we need to help our local businesses. So I'm very surprised that some people are speaking against this measure when this is a pro-business measure that will help all the small businesses in Hawaii. They should buy locally, and if you're going to buy from the outside, you should pay for it. Thank you, very much."

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

"Thank you, Mr. Speaker. I rise in opposition. I would like the words of the Representative from Pearl City entered as my own. I think the points were perfectly stated. I wanted to also ask that the words of the Representative of Waialae be entered as my own.

"Recently I refurbished a couple buildings in my district. I wanted a certain kind of product because I wanted to re-identify one building so that it wouldn't be graffitied anymore because it had been graffitied for 20 years. We kept painting it out and painting out. So I said I'm going to make it a little different. I couldn't find what we have here because we are far away from the rest of the contiguous states, and so much of what I wanted to have, I had to go through the Internet. I had to pay the additional shipping for the heavy bench, for the certain mailbox, for certain things.

"There are things that our people, our taxpayers, have to do. I think I've always been clear in my support for small business, but what I'm clear on is my support for our people. And our people to be the best that they can be for merit, for everything that they want to be. And I think that what we can do is we can have the best of both worlds by having that. And I think that Representative from Pearl City established why this is the wrong way to go about helping small business. It's just one more notch in that tally of Hawaii's reputation not being business friendly."

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

Representative Johanson's written remarks are as follows:

"Mr. Speaker, I rise in opposition to SB 1355. I have no qualms with the State trying to recoup tax revenue that is rightfully the State's under our current General Excise Tax laws. My primary opposition to this bill revolves around the State asking for information on retail purchases and the consumption habits of our residents. I am concerned that this measure is an infringement on personal privacy rights and that it is an overstep by government into our citizens' lives"

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

"Thank you, Mr. Speaker. In support. Just a few things. Yes, this is a fairness issue. We have many stores here, small businesses, retail merchants, who presently pay the GET, as well as a whole list of other taxes and benefits, especially when employing our local residents.

"Secondly, there was some issue brought up regarding tax information or sensitive information. DOTAX already manages people's confidential information. This is going to be nothing new. If you itemized a medical expense, DOTAX has that information. In fact, in many cases you probably submitted the receipt in which case they're going to know what it was for. So it's not like they don't do it anyway.

"Third is the issue of tax jurisdictions and the complications. My response to that is that's like any other business. If you are the CFO for Sears, or Macy's, or Costco, and you want to sell in 50 states, in varying counties, guess what? You have to know the jurisdiction and the tax code for each of those areas. If you want to sell to the country and you want to be all over the place, guess what? Just like the 'brick and mortar' guys, you have to know their tax code, too. I'm sorry. That's fairness.

"And then the last thing is the issue of the consumers. If the consumers walk into a storefront here, or a crack seed store on Fort Street Mall, they have to pay the four percent tax here as well, or in this case and in this county, four and a half percent. So irrespective of whether it's bought online or bought here, they still pay it. Thank you."

Representative Pine rose to respond, stating:

"I just wanted to make it clear that the reason I'm in opposition of this bill is purely because of the privacy issue. The previous speaker had stated that DOTAX already collects privacy information in terms of anything relating to our taxes. But according to our federal information practice statutes, what a person purchases online is not included as being protected under what he's saying that DOTAX already collects.

"And I do want to mention that I do support the Retail Merchants of Hawaii and I would support this bill, but even Carol Pregill, the President of the Retail Merchants of Hawaii, while they're for most of the bill, they strongly urged lawmakers to eliminate the data-sharing option which is the very reason why I'm against this bill."

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

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

Representative Jordan 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 Jordan's written remarks are as follows:

"I would like to express my reservations on SB1355, SD1, HD2, relating to taxation of out-of-state businesses on their activities in the State of Hawai'i. While revenue obtained from online purchases would be beneficial to the State budget and is required to be reported and paid under current State law, I have concerns over the logistics of implementing this current proposed legislation. Mainly, I have concerns about whether or not the Department of Taxation (DoTAX) has the power to require out-of-state companies to provide private information in regard to sales occurring in the State. This type of private data collection of names, addresses and total purchase cost could be challenged in court under privacy protection acts, which has occurred in other jurisdictions.

"Currently DoTAX does not have the manpower or equipment to process what is currently reported to the Department for many other revenue collections. To better capture out-of-state revenues, I would like to see a line item included on individual tax forms so individual filers can self-report their out-of-state consumption. This would ease the burden on DoTAX and would generate revenue for our State under our current requirements."

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. 1355, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 35 ayes to 16 noes, with Representatives Belatti, Brower, Ching, Cullen, Fontaine, Johanson, Luke, Marumoto, Nishimoto, Pine, Riviere, Takai, Takumi, Thielen, Ward and Yamane voting no.

At 11:59 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1458, SD 2, HD 3
S.B. No. 1383, SD 2, HD 2
S.B. No. 1385, SD 2, HD 2
S.B. No. 1503, SD 2, HD 1
S.B. No. 298, SD 3, HD 3
S.B. No. 1161, SD 1, HD 3
S.B. No. 1355, SD 1, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1526) recommending that S.B. No. 1496, SD 1, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the committee be adopted, and that S.B. No. 1496, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. In support. I would like the words of the Representative of Hawaii Kai entered into the Journal as if they were my own. Thank you, very much," 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. 1496, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENTERPRISE ZONES," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1528) recommending that S.B. No. 752, SD 2, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the committee be adopted, and that S.B. No. 752, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Yes, Mr. Speaker, just in opposition on Stand. Com. Rep. No. 1528. The reason I'm concerned about this, Mr. Speaker, and I know that we're trying to find money in different places. It just adds numerous new and increased surcharges for businesses and various places. I'm just concerned that once we add up the whole pie of all the tax increases and the fee increases, that this may be a little bit too much for business."

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

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

"Thank you, Mr. Speaker. In support. I just want to talk about the $20 surcharge. The origin of that surcharge was the Business Registration Division did a really good job during the former Administration and they dropped the fees by over 50% over a seven-year period. So the businesses did get a break. And so like the Minority Floor Leader said, we are looking for money right now. So actually we're just asking for it back just for a short period of time. Thank you."

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

"Mr. Speaker, in opposition. I really think this is just about the worst tax increase bill that we are going to see before us this Session. It's not the biggest but it's insidious. Just as a reminder I said at Third Reading on the House Bill that several other departments testified in opposition. I think it was the Department of Labor, the Department of Commerce and

Consumer Affairs, the PUC, and I can't even remember the other one. It all goes to DBEDT to feed its operations.

"And there're so many people out there that have no idea that they're going to be slapped with a $20 surcharge. Every single barber, cosmetologist, doctor, dentist, realtor, will be paying this and I just think it's a bad idea. Thank you."

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

Representative Johanson's written remarks are as follows:

"Mr. Speaker I rise in opposition to SB 752, which I believe has the potential to dramatically raise costs for Hawaii's business sector. As I stated in my remarks in the House version of this measure, I believe a surcharge like this has the potential to be levied multiple times on small businesses. I also worry that this fee may be passed onto consumers at a time when they are already under significant financial burden.

"This bill is well intentioned in its efforts to fund the Department of Business, Economic Development and Tourism, but I believe this measure may be counterproductive. The added fees will further burden already struggling small businesses in Hawaii."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 752, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC DEVELOPMENT," passed Third Reading by a vote of 43 ayes to 8 noes, with Representatives Ching, Fontaine, Johanson, Marumoto, Pine, Riviere, Thielen and Ward voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1529) recommending that S.B. No. 1213, 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. 1213, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PERMITTING," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1531) recommending that S.B. No. 787, SD 2, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the committee be adopted, and that S.B. No. 787, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I rise in support of Stand. Com. Rep. No. 1531. Thank you, Mr. Speaker. On any given day there's between 150 to 200 patients in Hawaii's hospitals who are waiting to be transferred to long-term care. Who are these waitlisted patients? Mr. Speaker, these patients will require hospitalization, but they have now since recovered and are deemed medically ready to transfer out of acute care to a long-term care facility.

"The total loss to hospitals in Hawaii was estimated at $72.5 million in 2008. $72.5 million. This is due to under payment by Medicaid and its contracted health plans. In fact, Maui Memorial Medical Center reports that their waitlisted patients in acute care cost them $1,200 per day. This would amount to $36,000 per month, or $432,000 per year. In fact, DHS, the Department of Human Services, already pays hospitals $25 million a year in supplemental payments for these patients.

"To sum it up, patient transition is difficult from acute care to long-term care facilities. The key would be to make patient transition fast and effective, and reduce the cost. We could do this by placing more patients in home care, aging in place. That's why Kupuna Care is essential. We can also do this by having these patients that are medically ready to leave transferred to a community-based care home. It's $1,800 a month for a foster home, compared to $36,000 a month at Maui Memorial Medical Center.

"Perhaps transfer these patients to a public long-term care facility which would be about $7,000 a month, or to transfer these patients to a private long-term care institution, about $10,000 a month. But still, far below $36,000 per month.

"If we can do these things, we can reduce the cost and perhaps reduce the $72.5 million that was estimated to be spent and turned losses to Hawaii's hospitals. That's why I support this bill. 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. 787, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1535) recommending that S.B. No. 1360, 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. 1360, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

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

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

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

Representative Jordan 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 Jordan's written remarks are as follows:

"I would like to express my reservations on SB 1360, SD1, HD2, relating to community care foster family homes. As pointed out in the testimony of the Long-term Care Ombudsman (LTCO), "most of the testimony in favor of this bill has focused on the cost of hiring a certified nurse aide as compared to a nurse aide ($10/hr vs. $7/hr), but the focus should really be on what's best for the resident."

"The LTCO further explains that "this bill weakens the care that community care foster family homes will be providing to our most vulnerable population by reducing the caregiver qualification." The LTCO shares my sentiments in summing up their testimony by focusing on the protection of our *kupuna*. I support the more practical approach proposed by the Department of Human Services that this bill be deferred and in the interim, all interested parties engage in discussions to restructure service delivery that ensures equity for the care providers and the safety of their clients."

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

"Mr. Speaker, in opposition and if I could make a few comments. Thank you, Mr. Speaker. I debated whether or not to speak up and make comments, but I feel the need to because I'd like to correct the record and let the Members know that in the Committee Report section where we talk about the testimony below, it's misstated that there was no opposition in this measure, when in fact the Long-Term Care Ombudsman strongly opposes this measure, as well as the Department of Human Services recommending a deferral, and the City and County Department of Community Service strongly opposing section 2 of this bill.

"At the end of the day, Mr. Speaker, this bill asks us to balance the health, safety and welfare of our *kupuna* against real business concerns about cost for the substitute caregivers and the providers in the community. But there's a better way to address this issue as identified in DHS testimony. While the bill is well-intentioned, according to DHS, the ability that a comprehensive restructuring of the service delivery with input from all, including agencies such as the Department of Health and the Executive Office on Aging, will provide a more effective and efficient way to provide the long-term care services needed with the welfare of the clients as the primary goal.

"Again, Mr. Speaker, I think if we have to balance the needs of business costs and concerns of the substitute care givers against the health, safety and welfare of our *kupuna*, we need to err on the side of ensuring the health, safety and welfare of our *kupuna*. 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:

"I support this bill with reservations. I have met with many caregivers to talk about our laws and their challenges. I'm concerned about potential risks this bill creates for our *kupuna* -- our seniors who live in community care foster homes.

"This bill will would weaken existing qualifications that a community care foster home caregiver be a nurse. Instead, the primary caretaker, who may not be present, is the only person that would have to be a nurse. If a substitute caretaker is caring for a senior, they would not need to be a nurse if this bill becomes law.

"This bill can be revised to reduce risks to our seniors by at least requiring that substitute caretakers become certified within two years. There are other revisions to our laws that can also better ensure our senior caregiver options are clear, risks to seniors are minimized, and caregivers are paid a fair wage."

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

"Thank you, Mr. Speaker. In support. Thank you, Mr. Speaker, this bill mandates that the community care foster family home must be certified and in operation for at least one year prior to being approved for a third client. Today the foster family homes are allowed to have two clients. One Medicaid client, and one private pay; or two Medicaid clients. There is no time limit. There is no experience requirement that allows them to go from a two-client household, to a three-client foster home. So this bill mandates that they have to be in operation for at least one year before being approved for that third client. It's a consumer protection issue and we think it's a proper safeguard.

"Second, this bill requires that nurse aids have minimum training of at least 16 continuous educational hours every two years.

"Third, this bill does state that the primary caregiver must be a certified nursing assistant, but it does allow the substitute caregiver to be a nurse's aide.

"And fourth, the foster home needs to make available for inspection to either DHS or any of their client's, or perspective clients and family members, a certification of approval that they're licensed to do business in Hawaii. They need to have for review, license of the current case manager or case management agency that oversees their practice. They need to also provide certification of their certified nurse aides, as well as their certifications of certified nurse aides and nurse aides available for inspection anytime.

"I should note that the Medicaid patient who transfers out of acute care to a community care foster home will be saving the State, the hospitals and consumers a large amount of money. In fact, as I stated in the prior bill, it would be $1,800 per month for a foster care patient, compared to $36,000 per month in acute care. This is again for a patient that's medically deemed ready to leave that acute care facility. Thank you, Mr. Speaker."

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

"Just short comments, Mr. Speaker, in favor of the measure. The Department of Health and the Department of Human Services have long micromanaged the only two kinds of service that we have in the community for our *kupunas*. That is the foster homes and the care homes. And with the previous bill we discussed the patients that languished in hospital beds that we cannot place in the community which is costing the hospital and the State a lot of money.

"The only two measures that we have, I repeat again, for our *kupunas*, because we don't have enough long-term care facilities, and the ones that we do are very expensive. They talk about restructuring the delivery of care. They have been talking about that for years, Mr. Speaker, and have opposed the measures that we have passed in this Legislature for the care of our *kupunas*, but they have not done so.

"If they have a better system they should have come up now and I would like them to come up so I could support this better system that they are proposing. But until then, I will support what we have because that's the only one that we have. Thank you, Mr. Speaker."

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

"Mr. Speaker, I rise in support and I want to include some written comments. But I would like to say that in testimony, I think the new Director of Department of Human Services is very sensitive to this issue and has a lot of good ideas. Particularly those ideas which would help language access in the area of examination for the nurse's aides to become CNAs. So I support this, and I support the Director's ideas for improvement of the system. Thank you."

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

"Mr. Speaker, I rise in support of this measure. We have heard how the impact of wait-listed patients affects the bottom line of our hospitals as well as fill up needed acute care beds.

"Community Care Foster Family Homes are the front line of destination for the patients who are unable to return to home. A family setting is a good thing for many patients. Many operators have a substantial amount of nursing care experience.

"Whether a home can handle 2 or 3 patients is dependent upon the specific patient needs and skill of the caregiver- something that should be determined by the licensing agency.

"Whether a caregiver is a nurse's aide or holds a certificate as a certified nurse's aide has led to some of the Members' questions.

"The problem here is that there is a significant language access problem associated with the CNA exam which is given only in English and is a significant cost item.

"I believe this bill should deal with this concern by asking the Department of Human Services to assist with providing CNA classes in appropriate language. The bill should go forward with a 2 to 3 year sunset allowing time for those who would take advantage of a revised test. Patient safety is at stake here. I believe the DHS has a flexible attitude towards this and will work with the care homes to achieve that result. I 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. 1360, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO COMMUNITY CARE FOSTER FAMILY HOMES," passed Third Reading by a vote of 47 ayes to 4 noes, with Representatives Belatti, C. Lee, Luke and Takai voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1536) recommending that S.B. No. 367, SD 3, 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. 367, SD 3, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. Mr. Speaker, I'm rising to cast a no vote and to speak in opposition to the interisland high voltage electric transmission cable system which will cost your constituents and the ratepayers untold amounts of money as yet to be determined. Thank you.

"Senate Bill 367 will shift the entire cost of the interisland cable on to the ratepayer. All our constituents on Oahu. By voting for Senate Bill 367 we pass on to our constituents the entire cost of the cable even if the final project does not deliver the electricity as promised. By voting for Senate Bill 367 we will be shielding Hawaiian Electric Company and its shareholders from all possible negative incomes. Wouldn't the Representative from Manoa love to see these kinds of business deals in the general business community, as we all would? It doesn't happen. The normal business community shares the risk, as it should, and they don't ask to be exempt from it.

"Our constituents will be bound to pay Hawaiian Electric shareholders a guaranteed rate of return even if the interisland cable fails to deliver. And for the first time in HECO's history the Legislature will give HECO a profit, no matter what. And our constituents will pay, no matter what.

"Proponents argue that the risk is negligible yet they insist that your constituents pay upfront. But if the risk is so small, Mr. Speaker, why are HECO and the Department of Business and Economic Development so determined to pass all the cost onto our constituents.

"Proponents also argue that by funding the cable upfront it will protect the ratepayer down the road, but is this really true? This legislation doesn't establish any protection for the consumer that would guarantee that the ratepayer would actually benefit from lower rates. And yes, Majority Leader, I've read the bill. Go look at page 19, 20, 21 and see what happens with this. We have no indication whatsoever what the price per kilowatt hour will be. But we are allowing the electric utility company to recover its costs. It can recover its revenue requirement resulting from acquiring the undersea cable system. It can recover through an automatic rate adjustment clause its revenue requirement resulting from the capital cost that it incurs for on-island transmission infrastructure.

"For those of you that haven't looked at your utility bill and seen the ECAC, that's the Energy Cost Adjustment Clause, where every time the price of oil goes up, Hawaiian Electric passes 100% of that increase on to the ratepayer. We're now going to have an ECAC for the cable, an automatic rate adjustment clause, meaning boom, up it goes. And it can be coupled with the existing ECAC or be a separate one. To provide for the timely recovery of the revenue requirement, the Public Utilities Commission shall establish a separate automatic rate adjustment clause for that purpose. You watch your bill. It's going to up and you'll have no power or control over that.

"The electric utility company's revenue requirement shall include an approved rate of return. Wouldn't you love that? You go into business, you're not sure if you're going to be able to make it work, but you're going to get an improved rate of return. You're going to be guaranteed a profit. Hawaiian Electric is. Our other businesses in the State aren't. You're also going to be able to recover deprecation revenue taxes, other relevant costs, and the electric utility company's net investment includes the cable acquisition costs, cost of planning, permitting, construction, the on-island transmission infrastructure ..."

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

Representative Thielen continued in opposition, stating:

"Thank you. Including an allowance for funds used during construction where the utility finances the planning, permitting and construction costs. It's just outrageous, Mr. Speaker, because you don't know what the cost is going to be.

"Cost estimates range from $500 million to $1 billion, but we don't know. Because we've had no analysis made available to us as decision makers. $500 million to $1 billion, and yet it could be more. Is it fair to commit the public to having to pay back for this? Because the bill automatically gives them this, and gives them a profit.

"Senate Bill 367 is rife with conflict and it allows Hawaiian Electric, as I've been saying, to take great risks without any consequence, and may actually act to delay meaningful contributions to our green energy transition. We all want a green energy economy and a green energy island chain. But Senate Bill 367 could lock us into a lawsuit similar to SuperFerry.

"And as I've noted to this Body a while ago, a number of years ago I said, 'Don't do away with judicial foreclosures. Don't allow the banks to do non-judicial foreclosures because there'll be dire consequences to many of the people in our islands who will lose their homes.' I said that a number of years ago.

"Today I'm saying, we're passing a bill that can lock us into SuperFerry type of litigation, cause those expenses to the State and Mr. Speaker, that takes the resources of this State to try to defend a bill that is a special interest bill for a monopoly utility and it draws us away from the true renewable energy efforts that we should be making in our State.

"I would also note that many residents of Lanai strongly oppose the wind farm that would provide electricity for the cable. And I would just ask those of us that live on Oahu to think, what right do we have to say that the residents of Lanai should have a large portion of their island turned over to a wind farm with that, I'd say visual blight some would call it, to provide power for Oahu. Not for Lanai. Not a self standing wind farm to provide the power to take Lanai off the electric grid. But no, we on Oahu feel that we have the right to say, Lanai, too bad. You're going to have to be the industrial wasteland to provide power for the residents of Oahu. I think that's shameful, Mr. Speaker.

"By voting for this bill, we're going to be giving Hawaiian Electric a $500 million to $1 billion gift that may or may not work. And it doesn't matter whether it works or not, the ratepayer has to pay for it under this scheme. Wouldn't it be better to insist that Hawaiian Electric take a risk just like any other business has to do in our State, Mr. Speaker. And then if they had to, I truly question whether this big wind project form Lanai would be their answer. I truly question if they wouldn't look at local resources that we have right on the Island of Oahu and tap into those resources at a less expensive cost to the ratepayer. This is a bad bill, Mr. Speaker. And I've read it. Thank you."

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

"Yes, Mr. Speaker, I'm standing in strong reservations on this measure. While I'm in favor of renewable energy, and the concept of wind and other types of technologies that will help address our issue of energy dependency on oil, being a resident of Maui and having wind technology on that island, it forever changed the landscape of the West Maui mountains having those windmills there. I think a lot of people on Maui bought into that consequence by thinking that by having wind that our electric bills were going to go down, and in fact they didn't. They've been steadily going up. So I'm concerned about that. I'm concerned about that impact that it will have on the people of Lanai.

"And the only reason I am not voting in total opposition is because I believe that it is a technology that we need to look at. I'm not in favor of the sweetheart deal that we are giving Hawaiian Electric in terms of doing this project, but I think we have to be really careful as we proceed forward with these types of projects and really take a look at the unintended consequences of our actions as this Body moves forward. Thank you."

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

"Thank you, Mr. Speaker, I rise with reservations. And I'd just like to make a couple of comments and then insert written comments. Thank you.

"I think we all generally agree we need to reduce our dependence on oil. We need to increase our renewable energy production within the State. And I think we all need to strive for efficiency and actually reducing our use of energy.

"This bill claims that it will move us in that direction. And if you look at the Committee Report, however, it says, the purpose of this bill is to establish a regulatory structure for the installation and implementation of an interisland high voltage electric transmission cable system. I think it's premature. I think that with the concept of us having wind mills on Neighbor Islands and then connecting it to Oahu is a concept, and I think it's potentially a good one. But there's been no analysis about the cost or the benefits that I've seen. Nothing in the record. I think also that I'm very concerned that this actually expands government at a time when we shouldn't be expanding government.

"And as the Representative from Kailua indicated, if you look at the language in this bill it looks like it's designed to benefit one corporate entity. So if you just glance at the bill throughout it, it has words such as, 'a cable company shall be selected through a request for proposal.' Or, 'an application for certificate of public convenience and necessity,' which is essentially what the PUC would do when they apply. It actually will be approved within 180 days.

"So, Mr. Speaker, again I just want to say that I think that this is premature. It may increase our electric costs significantly. It may be a dream for some lucky cable company. But I would much rather see something like a task force. Thank you."

Representative Wooley's written remarks are as follows:

"As I said, I have serious reservations about this bill, but that doesn't mean I'm opposed to an underwater cable system to promote renewable energy. I strongly believe in and support the many efforts underway to decrease our dependence on imported fossil fuels and move us toward energy independence and sustainability. However, this bill is premature. It also goes too far -- it will lead to a dramatic increase in electricity rates (estimated to be around 25% higher) with the risk of failure shifted entirely from a private corporation that wins a contract, to the ratepayers.

"In the State of Hawaii Department of Business, Economic Development and Tourism Progress report to the Governor and Legislature on January 4, 2010, DBEDT identified activities and initiatives to support HRS Section 196-41(c)(2). Priorities in that report included the study of interisland cable feasibility and likely performance, the evaluation of cost/benefit studies, and an economic modeling of the energy system. These activities have not been completed; it's possible that none of them have even begun. There simply has not been a qualitative or quantitative analysis of the cable system.

"In addition, a request for proposals to do an environmental impact statement was initiated by DBEDT, but it is nowhere near complete.

"My question for other legislators and the public to consider as they contemplate the potential for this bill to move forward is how can we go from a report in 2010 that identified studies and activities that need to be completed to evaluate an underwater cable proposal, directly to the establishment of a regulatory support structure for a cable system, with specific provisions for one corporation to win a contract and then shift all the financial risks and costs to the ratepayers? This bill simply doesn't make sense in its current form – it's in the wrong place at the wrong time and has potentially devastating consequences for the people of Hawai'i.

"Without more information and justification for a bill like this, I will not be able to support this bill in final reading if the language stays the same. I would support a bill that sets up a task force to evaluate the underwater cable system and report the findings to the legislature prior to the next legislative session. We simply cannot put the cart before the horse without serious negative consequences and risks."

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

"Yes, in opposition, Mr. Speaker. I would like to use the words from the speaker from Kailua as my own. My opposition is really very simple. If it is this Legislature's priority to make the ratepayers pay for this, then the ratepayer should have equal ownership and equal profit. And I think that's what I found so troubling in this bill is that the ratepayer is taking on all the risk and getting no part of the profit.

"And so I hope as this bill moves along that we start thinking about what Alaska has done with their natural resources and their natural gas. Their Legislature and their gGvernor helped the people of Alaska to be part owners of all this natural energy that they have. And so it's not unusual for our constituents to be part owner of this windmill project. I think we are very smart to be in favor of promoting natural energy and I support that aspect, but I do believe that we should all have the profits as well."

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

"Thank you very much, Mr. Speaker. In support. I do have reservations and I would like the words of the Representative from Kihei, aka my brother from another mother, entered in the record as if they were my own," and the Chair "so ordered." (By reference only.)

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

Representative Johanson 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 Johanson's written remarks are as follows:

"I rise with reservations on SB 367, Mr. Speaker. I do support efforts to build infrastructure that will encourage and facilitate renewable energy and bring our State into an economy reliant on renewable energy. However, I am concerned that this project holds HECO ratepayers, our constituents, financially liable for the project, whether or not it is completed efficiently and successfully."

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

"Mr. Speaker, I rise in strong support of Senate Bill 367. Mr. Speaker, this bill does not approve a wind farm project. It does not approve the installation of an undersea electric transmission cable. It does not approve the installation of the electric utilities on-island AC to DC conversion station.

"Mr. Speaker, what this bill provides is a regulatory structure for the PUC. Mr. Speaker, the certification section of this bill outlines the steps for the development of a request for proposal, an RFP process that will determine the necessity for a high voltage electric transmission cable system. Determine if a cable company is financially fit, and determine if a cable system would be cost effective and smart investment for the future of Hawaii.

"Mr. Speaker, the certification process outlines the steps to protect the ratepayers of our state by using a project on project process. A process that links the cable company, the independent power producer, and the electric utility company together. The system has to work before a cable company and the independent power producer are compensated by the ratepayers. The PUC does not have to authorize any compensation to the electric utility if the project is started and not completed.

"Mr. Speaker, the only way that we can explore the possibility of bringing renewable energy from the Neighbor Islands to Oahu is to take this first step and authorize this regulatory structure. Thank you."

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

"I rise in opposition. This bill is a blank check. It's a blank check for an uncertain future that is completely at the risk of the ratepayers of this island. The purpose of this bill according to its text says it's to establish the regulatory structure under which interisland undersea transmission cables can be developed, financed and constructed on commercially reasonable terms.

"Well that may be, it may be built and it may be built on commercially reasonable terms, however there's no clear indication what that's going to cost. And if we're going to write a blank check, I would suggest that this bill include a cap. How much are we going pay? Are we going to pay $1 billion, $1.5, where does it stop? This is premature in my opinion because we haven't got to that question of what is the overall cost. And further, the section where it says recovery of electric utility company costs, and this is the great part, it says an electric utility company may recover the costs that it prudently incurs in acquiring a high voltage electric transmission cable system throughout the commercial operations period after it is acquired. So this bill is giving a blank check to buy the system as soon it's complete and operational and we will continue to pay for it essentially without limit. That's how I'm reading this.

"The argument for the interisland cable is because there's so much wind on the outer islands and we have all the electrical demand over here. We have other resources that we can and should be exploring. In my district, Kahuku, we just turned on, we activated a new 30 megawatt wind power, so I'm not opposed to wind. Our community is very proud of this system. It is state of the art.

"But this project, you hear this number waved around that we're spending $7 billion a year is going overseas to the oil companies. This project is justified if the price of oil goes greater than $120 a barrel. That magic $7 billion. My question to the membership and you, Mr. Speaker is, what's the benefit to the ratepayer if that $7 billion goes from the oil company straight into the pocket of the electric company? I'm not seeing the gain for our community, and our independence, and our financial security.

"So those are some of my major concerns. There is another one that says right here where it says, if the electric utility company elects not to complete the on-island transmission infrastructure, the electric company may be allowed to recover reasonable costs. It doesn't say they're stopped or something got in their way. It says if the company elects not to complete the infrastructure they may be able to recover their moneys.

"So the questions I have are three. How much are we going to pay for this cable? Why are we writing a blank check? When we have wind generation we also have to have backup generation in case the wind stops blowing, so we have to pay the costs which is not calculated in any of this, of that backup reserve power. That is not insubstantial when we're talking about one third of our power coming from another part of the State. Where's the savings from the oil cost going? I don't see any savings in this project. So we're committing to spending a high price. There's no risk on the utility. They get everything they want. And we don't know what we're signing up for right now. I really don't think this bill should go forward at this time and not until we know the other pieces of this puzzle. Thank you very much."

Vice Speaker Manahan then stated:

"Before we proceed on Members, just so you know, the Senate has adjourned their session."

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

"Thank you, Mr. Speaker. In opposition. Mr. Speaker, I've gone back and forth on this measure. And like many, I do support renewable energy, and getting us off of the importation of oil. Looking at creative ways of how we get the energy to the other islands.

"But today I have to oppose this bill, and with all due respect to the Chair of Energy and Environmental Protection, this measure states that Neighbor Island resources should be used to satisfy Oahu energy needs. Maui County has many of its unresolved energy issues. These issues need to be addressed and resolved before the State considers Maui, Lanai and Molokai as abundant energy sources to be tapped for Oahu's sole benefit.

"This measure also presumes that using high voltage transmission cables to carry energy from Maui, Lanai and Molokai to Oahu is feasible. But environmental and other necessary technical studies have not yet been completed and reviewed.

"More importantly, the voices of the people of Lanai and Molokai and Maui, which I have been bombarded by my constituents, have said that they have not yet been heard. At a minimum, public meetings need to be conducted on both islands before a regulatory structure is considered. And I'm sure the intention of the Public Utilities Commission is to do that, but like I said today, I need to oppose this.

"Also regarding the proposed regulatory framework is unclear on how community benefits would be determined, who would bear the cost if these projects fail, and how these costs would be apportioned among ratepayers on Maui, Molokai and Lanai for an electrical transmission cable to service Oahu customers. A deferral is warranted to allow more time for community input. I ask for permission to submit comments to the Journal. Thank you."

Representative Carroll's written remarks are as follows:

"I would like to express my opposition to SB 367 SD3 HD2, establishing a regulatory structure for the installation and implementation of an interisland high voltage electric transmission cable system to transmit clean, renewable energy in the State. Although, I support efforts in promoting clean energy technology within our State, I need to oppose this bill for the following reasons. I would like to address the concerns of Maui County, the Office of Hawaiian Affairs, and many other constituents that have asked for my help regarding this measure.

"I would like to reiterate that Maui County has many of its own unresolved energy issues. These issues need to be addressed before jumping into an aggressive and risky enterprise that will not only be very extremely costly, but one that does not offer much remedy if such a plan should fail. I believe that more study and planning needs to be completed before undertaking such an enormous task designed to benefit the island of Oahu while potentially having drastic cosmetic changes, especially to the islands of Moloka'i and Lana'i.

"I question the feasibility of such a project when many technical and environmental impact studies need to be done to properly assess whether or not such a venture is indeed possible in its most current form. Furthermore, this interisland power cable in the state would lie across submerged ceded lands, which should require the support of the parties that govern such area.

"Again, I understand the need for this State to become energy efficient, but I am hesitant in supporting an undertaking that, assuming all the stages go according to plan, has the potential to only benefit 10% of Oahu's energy needs, does not significantly reduce energy costs, and will drastically impact the islands of Maui, Lana'i, and Moloka'i. It for the abovementioned reasons that I oppose SB 651 SD2 HD2."

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

"Thank you, Mr. Speaker. In support. And you wonder why we don't have more alternative energy in this State. This discussion today takes me back 23 years when I was in the Senate and we were trying to legalize geothermal. I heard all the same arguments. I almost got lynched when I voted for it, and some of those same people that opposed geothermal are part of that group that's trying to geothermal in the State of Hawaii today. We talked about undersea cable. Oh we're going to kill the whales. If your electricity rate goes up on Oahu, you know what you can do? PV, solar, on

demand gas, your own generator. You've got a lot of options. Let's keep discussing this. Thank you."

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

"Mr. Speaker, I rise with reservations. Mr. Speaker, I love geothermal. I love solar. I love photovoltaic. I love wind energy. I love wave energy. I love all of those. And my wife is bugging me to put photovoltaic on my roof, but I'm not going to pay $100,000. Well you say, it doesn't cost that much. Well, because we got proof. This one says there's no proof of what taxpayers are going to have to come up with and if the Chair of the Energy Committee is so certain, my goodness just put it in the bill or 'statutize' it, or put it in the Committee Report for all of us who love the idea. I think this is a great idea.

"It's a great idea with a bad business model. And those of us who can add and subtract are saying, 'My God. Okay you can get photovoltaic on your roof, but hey it's going to cost you an arm and a leg which for another 100 years you can pay for.' I mean, let's get real. Let's get down to the dollars and cents. And if it's not a good deal, let's not do it. There's other ways of doing it as the gentleman from the Big Island said. Let's do it ourselves and become self-independent.

"Mr. Speaker, it reminds me of the African saying that when the elephants fight, the grass and the trees, the small guys, get smashed. And we want to make sure when the big monopoly and the big government of the State of Hawaii fight, that the ratepayers don't get smashed on this. Let's go back and do our homework. Thank you."

Representative Fontaine rose and stated:

"Yes, Mr. Speaker, please change my vote to a no vote."

At this time, Representative Tokioka called for the previous question, stating:

"Thank you, Mr. Speaker. I can smell the aromas of lunch and I'd like to ask to call for the question. Thank you very much, Mr. Speaker."

Representative Awana 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 Hanohano rose in opposition to the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Hanohano's written remarks are as follows:

"Mr. Speaker, I rise in opposition to this measure, Relating to Energy. This bill was not referred to the Committee of Hawaiian Affairs which is tasked to examine submerged ceded lands. Establishing the regulatory scheme for an interisland power cable is presumptuous when the environmental impact studies (EIS) are in the preliminary stages. The native Hawaiian people on Moloka'i and Lāna'i have grave concerns and the potential impacts of their islands resources before tapping their neighbors resources. It is interesting that the Chair of the Public Utilities Commission deferred to the Legislature on whether to facilitate the development of the inter island cable system."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 367, SD 3, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ENERGY," passed Third Reading by a vote of 44 ayes to 7 noes, with Representatives Carroll, Fontaine, Hanohano, M. Lee, Pine, Riviere and Thielen voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1537) recommending that S.B. No. 725, 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. 725, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Awana 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 Awana's written remarks are as follows:

"Mr. Speaker, I rise in support with reservations. Solid waste is a burden to the people of my district. Increase the solid waste fee and watch the increase in illegal dumping. My district along with many rural areas is also burdened by illegal dumpsites. There is already a solid waste fee. We add to an already bad situation and make it worst. For these reasons, I rise with reservations. Thank you. Mr. Speaker."

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

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

"Yes on solid waste, reservations on the increase on fees."

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. 725, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SOLID WASTE," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Fontaine, Pine and Ward voting no.

At 12:39 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1496, SD 1, HD 1
S.B. No. 752, SD 2, HD 1
S.B. No. 1213, SD 1, HD 1
S.B. No. 787, SD 2, HD 1
S.B. No. 1360, SD 1, HD 2
S.B. No. 367, SD 3, HD 2
S.B. No. 725, SD 2, HD 1

At this time, the Chair announced:

"Members, we will now recess for lunch and return at 1:15 p.m. Thank you."

At 12:40 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:28 o'clock p.m.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1538) recommending that S.B. No. 146, 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. 146, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 146, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO BIOFUEL," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Cullen and Yamane voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1539) recommending that S.B. No. 699, 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. 699, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you. Mr. Speaker. I am in opposition to this particular measure. It raises fees and I think they're quite large. This is Senate Bill 699, Senate Draft 2, House Draft 2, Relating to the Office of Environmental Quality Control. It establishes fees to help fund the operations of the OEQC and to create an Environmental Review Special Fund. It will help fund the activities which include the ability to hire staff, support outreach, training, education, research, modernize and maintain technology systems and develop technology training.

"But the proposed fee is as follows:

$1,500 for a draft environmental assessment;
$1,000 for a final environmental assessment;
$500 for an environmental impact statement preparation notice;
$4,000 for a draft environmental impact statement;
$3,000 for a final environmental impact statement;
$500 for other significant addendum to a final environmental assessment;
$500 for a final environmental assessment or supplemental environmental statement preparation notice;
$2,000 for a supplemental draft environmental impact statement; and
$1,000 for any supplemental final environmental impact statement.

"These fees are quite high and one project may incur many of them in completing their EIS. And this is according to the testimony from the Land Use Research Foundation of Hawaii. And they said it's based on what appears to be an arbitrary interim fee schedule for review of environmental documents. The arbitrary criteria for waiver of fees and the lack of transparency and stakeholder input in setting the arbitrary interim fees and waiver criteria. They were unhappy because it was created without stakeholder input of those select organizations that would be burden by paying these fees. They state that it will increase the cost of State, county, and private development projects and economic development.

"So I think I agree with them. It's simply bad policy and bad business, especially in these economic times. Thank you."

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:

"I support this bill with reservations. I'm simply concerned that the increased fees will cause the cost of projects to go up at a time when we need to stimulate the economy. In addition, the increased fees may encourage scofflaws and shortcuts that will hurt the environment in the future.

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

"Thank you, Mr. Speaker. In strong support of Senate Bill 699. Mr. Speaker, what's going to cost a lot of money is the developers who are delayed by months and in some cases, years to get their EAs or EISs processed.

"The fees that were mentioned by the previous speakers are small compared to their cost to get their things processed, in upwards of a half million dollars. So what we need to do is to be able to fund the Office of Environmental Quality Control so they can move forward with the process, speed up the process, and help our development community move forward. Thank you, Mr. Speaker."

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

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

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

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

Representative Awana 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 Awana's written remarks are as follows:

"Mr. Speaker, I rise in opposition. The increases in fees are too large and consumers will ultimately pay for these increases. We want to support construction and development. I can foresee a decrease in construction and development because of this measure. Mr. Speaker, I believe the real question that should be asked is, "How much do they need?" and "How much will these additional fees bring to the department it needs?" 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. 699, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF ENVIRONMENTAL QUALITY CONTROL," passed Third Reading by a vote of 45 ayes to 6 noes, with Representatives Cullen, Fontaine, Har, Marumoto, Pine and Yamane voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1540) recommending that S.B. No. 1244, 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. 1244, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BIOFUELS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1541) recommending that S.B. No. 239, SD 2, HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the committee be adopted, and that S.B. No. 239, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"A ruling on a potential conflict, please. My grandson is at the Med School. Thank you," and the Chair ruled, "no conflict."

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

"Thank you, Mr. Speaker. In opposition. Thank you. When this bill came up before in the House version at Third Reading, I was fine with it. And actually I still don't mind it. I don't the underlying tenant of this particular measure. But what I think is most problematic is the inclusion in this particular draft of the establishment of a Public Health School. I think again, most of us would like the UH Medical School to wean itself off of Tobacco Settlement Funds. I don't have any principal disagreement with any two of the other programs that it goes to.

"But I think an establishment of a Public Health School as this particular bill calls for is not necessarily very timely or prudent, given one, our budgetary constraints. It sort of suspends reality when we're looking for money in the public eye to be creating another school which may or may not be duplicative of the Medical School in its scope and mission.

"Furthermore, in splitting up the money that is taken from the Tobacco Settlement Fund it doesn't really achieve the end that any of the intended parties seek. The Medical School is losing money. That's going to have an adverse impact on them. It's not enough money for the public Health School to necessarily be self sufficient. And I'm not sure, with respect to the other two programs, that this diversion of funds goes to, whether or not that fully achieves their ends. So I think as a compromise, I understand why this may have been made, but I don't think it necessarily satisfies the ends of all of the intended parties.

"And lastly I think what is most ironic about this bill is given that's underlying premise is rooted in achieving self-sufficiency and financial solvency for the Medical School, it's ironic that by creating another school we're perpetuating that cycle of dependency because it's not likely that the Public Health School as established by this bill is going to be receiving enough revenue to be self sufficient, get off the ground, and create itself.

"So for all those reasons, I hope that as this goes to Conference, this particular section of the bill, the creation of a Public Health School at UH is taken out. Thank you."

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

"Thank you, Mr. Speaker. I'm standing in support. Mr. Speaker, in regards to the establishment of the School of Public Health, Mr. Speaker, JABSOM is currently looking at reestablishing in conjunction with the UH to develop the School of Public Health, and hopefully if they get the right resources, a School of Public Health could be established within about three years.

"Also, Mr. Speaker, also a UH School of Public Health would be able to draw in federal moneys from for example areas like the Center for Disease Control, as well as FEMA and other federal funds to do research in the area specifically related to issues relating to disease outbreak, chronic health issues, which includes tobacco cessation, Mr. Speaker.

"In regards to the School of Public Health and the nexus of the Tobacco Funds, public health and education is actually a more direct nexus than actually programs like JABSOM.

"Mr. Speaker, as we look forward, and as we move forward in regards to how to wean or get the School off the chronic cycle of using Tobacco Funds, the issue was using these funds with a more direct nexus of helping the future generations understand and be aware of diseases, and the impacts of cancer and tobacco related issues. A School of Public Health is a direct nexus, Mr. Speaker. They would be the ones to educate and train those in the field that would be dealing with those suffering from respiratory and chronic disease. Thank you, Mr. Speaker."

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

"Mr. Speaker, I will vote on this measure with reservations, serious reservations. I found the arguments from the Representative from Moanalua compelling. Thank you."

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

"Thank you, Mr. Speaker. I also rise with some reservations and they are reflected in the comments made by the Representative from Moanalua.

"It's my hope that one day that we will be able to harness the John A. Burns School of Medicine as again, a source of excellence reflecting the East-West understanding of the strengths of both types of medicine, to be able to really be a source of pride and excellence. And I'd like to see us realize that goal because there are so many countries out there, be it Korea, etc. who would love to come here with their revenue, and come here and utilize somehow connected to our Medical School. And I think that was probably one of Dr. Cadman's goals. So getting back to Dr. Cadman's vision, I just like to see our Medical School excel. Thank you."

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

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

"Thank you, Mr. Speaker. I rise in opposition and I request written comments to that effect. Thank you. I just wanted to briefly just explain to the Members my opposition. I do recognize and appreciate the efforts made by the Chairs of Health and Higher Education as they attempted to address the shortage of medical personnel in the State by creating those residency programs, or at least putting it into this bill.

"However, Mr. Speaker, and I've said it from the beginning in 2001 when we created the Hawaii Tobacco Trust Fund that I'm going to, as long as I'm here on this Floor, I'm going to defend to the day that I'm not, why we set it up and how important it is. I would have let this bill pass this year, but there's another bill going through the Legislature that basically erodes the corpus of this Tobacco Trust Fund and also takes, for the next two years, the money going to tobacco prevention efforts.

"So not only do we not do what the advocates, the anti-tobacco advocates want in this bill, but we basically cut off their legs in the other bill. And when we go back to the creation of the Tobacco Trust Fund in 2001, I don't think any of us expected that we'd be here today talking about this.

"The other thing is in the hearing in Higher Ed, we had a discussion not only on the JABSOM, the John A. Burns School of Medicine, but also the Cancer Research Center. And as you all know these two facilities or two entities are kind of like combined and working together. What you may not know is a few years ago we appropriated I believe, it was 1 cent per cigarette to the Cancer Research Center, which amounts today to $16 million a year.

"Now the reason why that's significant is because we learned through written testimony that was filed late, and you can take a look at it on the computers. We learned that the debt service for the Cancer Research Center is going to be in the amount of $7 million a year. So what does that mean? Well there's another $9 million somewhere being saved up for different things. Things like hiring new researchers for the Cancer Research Center.

"So I had an opportunity to talk with MRC Greenwood, the President of the University, and I asked her why doesn't she take some of this $9 million, which is coming from the cigarette tax and have that money support the Medical School, because the Medical School does need the money. And give the $4 million, which is what we're doing here today, give it back to the advocates so that they can do what they need to do in terms of tobacco prevention. No answer there.

"The reason why I bring this up is because I think we need to take a look at this package. We need to understand how much money is going to the Medical School. How much money is going to the Cancer Research Center. What they're using it for. And what the realities are in terms of the future request and general funds? And I think if you put everything

together you'll understand why I stand here in opposition to this bill. Thank you, Mr. Speaker."

Representative Takai's written remarks are as follows:

"Mr. Speaker, I rise in opposition to this measure. Let me say at the onset that I continue to support the University of Hawaii and the John A. Burns School of Medicine (JABSOM). However, I have two major objections to this measure. First, I continue to raise serious concerns about the use and erosion of the tobacco settlement funds. Second, I continue to take issue with the University's failure to fulfill numerous promises.

"I remind my colleagues of the Master Settlement Agreement (MSA) between the 46 states and the five major tobacco companies. According to the agreement, the settling states and our citizens will receive "significant funding for the advancement of public health and the implementation of important tobacco-related public health measures."

"In keeping with the spirit of the original lawsuit and the MSA, the 1999 Legislature passed Act 304 (SB 1034 CD 1), which states, "The fund shall serve as a mechanism to maximize financial resources for tobacco prevention and control, health promotion and disease prevention programs, children's health programs, and to serve as a long-term source of stable funding for prevention-oriented public health efforts."

"In 1999, when we set up the Tobacco Settlement Special Fund (TSSF), we dedicated 25 percent of the funds to tobacco prevention and quit-smoking programs. The reason why we dedicated 25 percent of the funds to tobacco prevention was the return on investment for tobacco prevention and control is quite significant. Essentially, for every $1 spent on tobacco control, Hawaii saves $5 in health care costs.

"Recently, the Hawaii Tobacco Prevention and Control Trust Fund (TPCTF) reported that from 2000-2009, $88.9 million was spent in tobacco control. The projected health care savings from this $88.9 million investment is $451.7 million.

"In addition, there has been a significant decline in smoking rates from 2000-2009. In 2000, 12,000 high school students smoked. In 2009, only 5,500 high school students smoked.

"In 2000, 2,200 middle school students smoked. In 2009, only 1,300 middle school students smoked.

"In 2000, 187,900 adults smoked. In 2009, 154,000 adults smoked.

"I mention these statistics to show concrete evidence that since its inception, the TPCTF has saved lives by being a major driving force behind the reduced smoking rate in Hawaii.

"On the heels of September 11, 2001, the Legislature reallocated 28 percent of the annual tobacco funds to the UH Medical School while cutting the funding to tobacco prevention programs to 12.5 percent (one half of the initial amount).

"In 2009, tobacco prevention programs were again deprived of settlement funding with a further decrease to 6.5 percent.

"In 2001, JABSOM received 28 percent. Ten years later, JABSOM continues to receive 28 percent. In addition, in 2001, the intent of the Legislature was to fund only the construction of the medical school campus. Since 2007, funding over and above the bond payment went to the operations of the medical school. This temporary use of the extra funds was supposed to end. Today, the UH Medical School says that it needs this extra funding forever.

"How can we explain the decrease of tobacco prevention support from 25 percent to nothing, while we hold steady and protect the funding to the UH Medical School at 28 percent?

"To add salt to the tobacco prevention efforts wounds, the Legislature is contemplating a raid of about $30 million from the corpus of the TSSF and the elimination of all funding for tobacco prevention efforts for at least the next couple of years (SB 120).

"Even the Hawaii Department of Health (DOH) is deeply concerned that the long-term viability of tobacco prevention efforts is at risk. In testimony before the Legislature this year, DOH urges that "any redistribution of the TSSF be done in consideration of the original spirit of the lawsuit, settlement and resulting state statutes that established the special fund."

"In addition to our initial commitment to tobacco prevention efforts, I'm also concerned about the University's failure to follow through on commitments made to the Legislature since 2001.

"If we don't hold the University or other departments to their commitments, what good are their promises? And how can we believe them in the future?

"The commitment to use 28 percent of the funds for the UH medical school is much more than covering a $150 million bond float. It's really about spending 300 million dollars! The debt service agreement was originally pegged at $302 million or around $10 million for 30 years.

"In addition, the University committed to raising $150 million in matching funds to cover the cost of renovating the old Bio-Medical Sciences Building, to cover the cost of construction of the new Cancer Center, and to cover the operational costs of the new medical school in Kakaako.

"In 2001, I voted against our efforts to erode the promises we originally made in 1999. My vote today is in part because of this. But, my vote against this measure today is much, much more.

"We must hold people accountable for their words, commitments, actions, or, in this case, inactions. I would like to quote from a few letters that I have received in the past.

"On March 25, 2003, Dr. Ed Cadman, former dean of the UH Medical School, wrote: "Our best guess would be that operation and maintenance costs of the facility will be between $6-$7 million annually. We expect to primarily fund these costs through F&A (facilities and administration) cost recovery from sponsored projects."

"Cadman continued, "We understand (the Legislature's) expectation that the new school campus will be financially self-sufficient and the importance of having the ability to accurately measure and evaluate the school's return on investment."

"On February 25, 2004, David Morihara, former Director of Government Relations, wrote: "We anticipate that a substantial portion of the operating costs of the core facilities will be funded in future years mainly through the extramural facilities and administrative recovery mechanism and secondarily through interest earnings on endowments generated from naming opportunities and a contribution from the ancillary services provided on campus."

"Director Morihara also provided us with a chart explaining the Operating Cost Projections from fiscal year 2005 to fiscal year 2009. The chart shows that there were initial state funds of $1.8 million to fund the start up of the medical school in FY05. An additional $3.9 million was needed in FY06 to carry the medical school through a second year of transition. However, in FY07, the operations of the medical school were supposed to be nearly 100 percent self-sufficient. At that time in 2004, their own figures suggested that only $364,952 were needed in additional state funds to operate the new facilities. They projected general fund requirements of $352,094 for FY08 and $337,822 for FY09.

"On March 7, 2005, President David McClain wrote: "I do want to acknowledge that with regard to the funding of the operating costs of the research building and the educational building of the John A. Burns School of Medicine at its new location in Kakaako, initial commitments made in 2001 at the time the construction of the new facility was approved have been shown with the passage of time to have been overly optimistic."

"President McClain's comments were welcomed and necessary. In 2003, he committed to re-doing the financial plans for the medical school. He brought in Professor Shirley Daniels to come up with the new plan. In 2005, we approved an additional $3.7 million for both FY06 and FY07. This temporary funding was placed in our budget as a proviso because the University committed to fixing their balance sheets by June 30, 2007. According to their commitments in 2005, they were only going to need this $3.7 million for two years. Afterwards, their financial plans suggested that very little state funds would be needed in the biennium budget (FY08 – FY09) for the operations of the medical school.

"Gary Ostrander, who in 2007 served as the Interim Dean for the Medical School, said to *The Honolulu Advertiser*: "To the best of my knowledge to this day there was never a business plan. If there was one I have not seen it." This is totally absurd.

"In 2007, the University requested $4.1 million for FY08 and $4.35 million in FY09, in addition to the $3.7 million in the two-year proviso. Just two years prior, they said that they would need little to no State funds to operate the medical school. In 2007, they said they will need $15.8 million for two years in new money! This is absolutely irresponsible.

"In 2007 when the House passed our version of the State budget, I said then that I would support increasing the medical school base by $3.63 million and $3.95 million for the next two fiscal years. Our budget was very generous. The total general fund support to the Medical School in our budget was about $5.6 million each year.

"But the University said that it was still around $4 million short in operating funds even after our very generous support in our budget. So, what did they do? They proposed to make up the difference utilizing the tobacco settlement funds.

"In 2007, I asked then-Dean Gary Ostrander what would happen if they did not get the additional $4 million. He said that they would be able to survive, but will need to make some reductions to their financial plans. I told him that his comments on right-sizing the budget were the same comments we heard two years prior. Did the university right-size the budget? The answer is no.

"This bill will allow the university to continue to access the left over monies from the 28 percent annual allotment. The University did refinance the bonds in 2006. We need to acknowledge and thank them for this. The payment for FY08 was $6.6 million and the payments for the out years are a little less than $10 million for each year.

"If this bill passes, the University will realize a lot of money. In 2008, with a significant increase in funds going into the TSSF, the University realized an additional $7.4 million. Since FY09, the University continues to receive additional funds in excess of $3 million each year.

"How can we in all good conscience provide this amount of funds to the University? What we're saying with this bill is that the University is no longer responsible to keep their commitments, no longer required to keep their financial books balanced, because they can always come back to the Legislature if they should fall short. Is this a good message? My answer is absolutely NO.

"I wanted to talk a little bit about our commitment to the Cancer Center. Recall that in 2001 when we approved the use of tobacco funds for the UH Medical School that the University's commitment was to provide the necessary funds to construct a new Cancer Center facility. In 2006, we passed SB2961, which became Act 316. This bill increased the cigarette tax from $1.40 per pack to eventually $2.60 per pack in 2011. Some of this increase was to pay for the construction and operations of the new Cancer Center. In fact, the University was expected to receive $11 million in 2009, $16 million in 2010, and $22 million from 2011 forward for the construction and operations of the Cancer Center.

"Recently, we received the "University of Hawaii Cancer Center Operating Budget Plan" (See testimony on SB 239 on March 22, 2011). In this plan, the Cancer Center plans on receiving $17 million from the tobacco tax. The debt service for the new building will be $8 million annually. With an extra $9 million each year, surely the University can use some of these funds (again from tobacco) to assist the UH Medical School with their budget challenges.

"The public expects the Legislature to be accountable for the taxes we collect and the services we provide. We should do no less to those that receive our approval and funding as well.

"JABSOM will go a long way in providing the next generation of healers with the knowledge and support to serve the people of Hawaii. But we cannot send them forward on the basis of broken and empty promises.

"I conclude with the insertion of an article, which ran on Sunday, July 22, 2007 in *The Honolulu Advertiser*.

Posted on: Sunday, July 22, 2007
Hawaii med school goals come up short

By Sean Hao
Advertiser Staff Writer

The University of Hawaii's new state-of-the-art medical school and research facility in Kakaako is having less of an economic impact and costing more than originally promised.

The school has so far failed to deliver on several promises made by former UH president Evan Dobelle and former John A. Burns School of Medicine dean Ed Cadman, including:

- A promise to raise $150 million to finance a new Cancer Research Center in Kakaako. Less than $1 million of that money has been raised to date.
- A plan to draw in $100 million or more per year in research and training grants. Medical school grants improved to nearly $73 million in the fiscal year that ended June 30, 2006. They fell to $48 million the following year, according to preliminary figures.
- An expectation the med school would create 500 new jobs. Total medical school jobs rose by 43 between June 2004 and July 2007.

In addition, a key pledge — that the medical school would not require added state funds to cover costs — may not be fulfilled for several years. That promise was based in part on plans to boost grant awards to $100 million or more, which in turn would generate enough money to cover the new facility's overhead costs.

"The fact is we are actually doing what we said we were going to do," said Gary Ostrander, interim dean for the medical school. But "maybe not at that grandiose scale."

To be sure, the medical school has a positive impact on healthcare in the state. The first crop of 62 students is expected to graduate in 2010, and 60 percent of medical school graduates here go on to practice medicine in Hawaii, Ostrander said.

The $73 million in grants to the school in 2006 was almost entirely spent locally, with the bulk going toward salaries.

"These dollars are being spent at the local 7-Eleven, being spent at movie theaters," Ostrander said. "That's a significant economic driver."

The health and economic benefits of a local medical school exceed the burden on state finances, he said.

"Healthcare would suffer tremendously in this state if there wasn't a medical school," he said.

As for the goal of $100 million in grants, Ostrander said, part of the difficulty in reaching that goal has been a more competitive climate for grants in the wake of Sept. 11 and Hurricane Katrina.

In addition, the medical school has suffered from a lack of focus during a prolonged search for a permanent dean, Ostrander said. Cadman resigned in 2005 for health reasons, and the appointment of a permanent replacement dean has been delayed by a change in university leadership.

DIPPING DEEPER
Lawmakers gave UH the go-ahead to build the medical school in hopes of bolstering the state economy in the aftermath of the Sept. 11 terrorist attacks. The medical school was given a portion of a state settlement with tobacco companies to repay $150 million in construction bonds.

The new school was then supposed to operate without costing the state any more money than it cost to run the university's old medical school. However, earlier this month Gov. Linda Lingle signed a new law expected to provide the school with an added $3 million to $4 million a year for the next four years.

That's on top of $7.4 million in supplemental, additional budget funds already given to the medical school during the past two years. That means that by mid-2011 the state will have given the medical school an estimated $20 million to cover increased operating costs.

Some lawmakers are losing patience with the lack of follow-through on the university's original promises. Those promises were the basis for much of the Legislature's support for the project, said state Rep. K. Mark Takai, D-34th (Newtown, Waiau, Pearl City).

On Jan. 27, 2004, Dobelle promised legislators that by September 2005, UH would raise $150 million to finance a new Cancer Research Center to be built in Kakaako next to the medical school and to retrofit the Biomedical Sciences Building on the Manoa campus.

Dobelle said he would get the money from federal, private and UH Foundation sources. "We're committed to that and confident of that," Dobelle told lawmakers at the time.

Takai said, "We were led to believe very early on that they would come up with a $150 million match (and) ... they would pay for operating the new facility. I believe we need to support the university. ... All I ask is that when promises are made, promises are kept.

"I would expect that in four years the UH medical school will no longer need additional money."

'NEVER' A BUSINESS PLAN
In hindsight, key projections, including the amount of grant money that could be used to run the school, were off-base, Ostrander said. From the outset there was a lack of basic understanding of how much the new school would cost and how much money it would bring in.

"To the best of my knowledge to this day there was never a business plan," for the medical school, said Ostrander, who has run the school for about eight months. "If there was one I have not seen it."

The school doesn't have a firm grasp on operating costs in part because its facilities aren't fully utilized and because of the transition from older facilities on the Manoa campus into the new Kakaako campus, Ostrander said.

Meanwhile, the school's increased reliance on tobacco settlement money ultimately means less money for smoking cessation programs. Currently the state receives about $35 million a year to settle healthcare claims connected with smoking. Of that, 24.5 percent goes into a state emergency "rainy day" fund, 35 percent goes to the state Department of Health, 28 percent to the medical school and 12.5 percent into a tobacco prevention fund.

Until this month, the money not used by the medical school to pay debts had to be returned to the rainy day and tobacco funds. Under the new law, excess money can be used to pay medical school operating costs instead.

The U.S. Centers for Disease Control and Prevention has said Hawai'i doesn't spend enough on tobacco prevention. Hawai'i should spend $11 million to $23 million a year to have an effective tobacco prevention program, the CDC says. But the state spent just $9.1 million on tobacco prevention in fiscal 2007 (ended June 30), according to the Campaign for Tobacco Free Kids.

Among those opposed to the new law was the Coalition for a Tobacco Free Hawai'i. Kathy Harty, its interim director, said the group already doesn't get enough money for its programs: "We believe these should be funded rather than filling in a deficit for the medical school."

The Honolulu Advertiser
Sunday, July 22, 2007

Representative Fontaine 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. 239, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TOBACCO SETTLEMENT SPECIAL FUND," passed Third Reading by a vote of 43 ayes to 8 noes, with Representatives Johanson, C. Lee, Luke, Pine, Rhoads, Riviere, Takai and Takumi voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1543) recommending that S.B. No. 797, 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. 797, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR HEALTH INFORMATION TECHNOLOGY," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1544) recommending that S.B. No. 1348, 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. 1348, SD 2, HD 3, pass Third Reading, seconded by Representative Evans.

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

"In support, but actually with more reservations on Stand. Com. Rep. No. 1544. What this bill does is it establishes the Hawaii Health Connector to create a health insurance exchange pursuant to the federal Patient Protection and Affordable Care Act of 2010. And I just want to note again, we continue to be looking at these bills that basically put us in line with using President Obama's healthcare for Hawaii.

"And I continue to be concerned because on November 7th, Congresswoman Hirono put an amendment in the President's healthcare bill and basically she said in supporting this bill, I want to highlight several points. But the most important one, first for the Hawaii bill, includes the Hirono amendment that provides an exemption for Hawaii's Prepaid Healthcare Act of 1974. And then a few days later, CBS News in Washington covered the story where she stated that we have this exemption because our Prepaid Health law is better than most throughout the federal government.

"And so I'm just really concerned that we continue to have these bills that include the President's Healthcare Act with our healthcare, and I just hope that we really analyze all of these stipulations very carefully."

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

"Mr. Speaker, likewise on this measure. I will vote with reservations. I think it's premature. 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. 1348, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HEALTH INSURANCE EXCHANGE," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1545) recommending that S.B. No. 1274, 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. 1274, SD 2, HD 3, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I'm rising with some concerns and reservations on this measure. Thank you. Mr. Speaker. What this does is it provides uniform standards for external review procedures to comply with the requirements of the federal Affordable Care Act which I'll call the ACA.

"A number of the present consumer protections are being repealed by this Senate Bill. Consumers presently under the current law awaiting a hearing are guaranteed all of the rights and protections under the current law. But under this new Senate Bill, the consumers presently awaiting a hearing will apparently be stranded because this bill fails to preserve all of the rights under the present law.

"Then the second thing is under the present law, consumers have a right to a face-to-face hearing before the Commissioner. Under this Senate Bill, consumers get no hearing at all and all external reviews are conducted by third party independent review organizations.

"The third point. Under the present law consumers have a remedy for errors of fact or law. Under the Senate Bill that we're addressing now, consumers have no remedy for errors. The IRO physician makes on the law, or applying the law to the facts.

"And then fourth issue. Consumers under the present law are assured of a level playing field against the legal resources and information available to the plans. Under this bill, consumers have to bear the cost of any assistance they receive from attorneys or experts.

"And then finally, under the present law all consumers are assured that Hawaii has a strong deterrent of proven effectiveness against managed care abuses. But under the Senate Bill, all consumers have no assurance that sending cases to a third party independent review organization will be as effective a deterrent against managed care abuses as the present law has been.

"So in summary, in trying to pass measures to put us in conformity with the ACA, I think we are taking some steps that are removing Hawaii's present consumer protection measures that are in our present law. I don't think that's progress and I would ask that the Conference Committee Members to take a harder look at this. Thank you."

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

"Mr. Speaker, may I have a ruling on a potential conflict? At my law firm, they do represent health insurance plans in defense at administrative hearings, but I don't do any of that work. 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:

"Mr. Speaker, I vote with reservations. I'm hoping that before the end of Session we are able to add an external review process to the bill that's existing now. Thank you."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1274, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO HEALTH INSURANCE," passed Third Reading by a vote of 51 ayes.

At 1:51 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 146, SD 1, HD 2
S.B. No. 699, SD 2, HD 2
S.B. No. 1244, SD 2, HD 1
S.B. No. 239, SD 2, HD 2
S.B. No. 797, SD 1, HD 1
S.B. No. 1348, SD 2, HD 3
S.B. No. 1274, SD 2, HD 3

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1546) recommending that S.B. No. 1078, SD 2, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the committee be adopted, and that S.B. No. 1078, SD 2, HD 1, 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 Senate Bill 1078, Senate Draft 2, House Draft 1, but would like to express some reservations. This measure would make EUTF benefits subject to collective bargaining and I believe this might raise the State's health insurance cost.

"Presently, collective bargaining on benefits center solely on the employer and employees split to pay for the cost of health insurance premiums. And this system has served the State well as it gives us leverage by negotiating on behalf of all State employees so that we can obtain a good price from health insurance providers. I realize the price is going up, but nevertheless it's better than others.

"This bill totally changes this dynamic. It complicates an already difficult negotiation process by adding health benefits into the mix and weakens the State's ability to secure a better price for health coverage. The Department of Budget and Finance summed up this situation well in testimony when it said, 'Allowing individual units to negotiate benefit plans, and allowing arbitration panels to award specific benefits diminishes the leverage of the EUTF as a large group purchasing pool.' This means the State's ability to negotiate a good price will be weakened because it'll be approaching providers on behalf several collective bargaining units.

"So health costs already make up a significant portion of our budget and this will mean that those costs might go up when we can least afford it. So I hope that you will consider this bill in the few weeks as we pursue the end of Session. Thank you, very much."

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

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

"Mr. Speaker, with reservations and one comment, please. Mr. Speaker, as the Representative from Waialae indicated, cost implications are implicit in this bill, and my concern is with what happened a couple of weeks ago with the notion of 'most favored nations.' It means that cost differential will disappear. It means that the cost of premium programs will

be probably the order of the day. VEBAs will no longer exist. There will be no differentiation, and I think we have to take that into consideration. Thank you."

Representative Johanson 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 Johanson's written remarks are as follows:

"Thank you, Mr. Speaker. I rise with reservations on SB 1078. I do want to recognize the intent of the measure. I believe that all of us in this Body recognize that the EUTF currently is not functioning optimally for both the employer and employee. However, I do have some concerns with this bill as currently drafted due to its potentially negative impact on the worker. Because of the current structure of the EUTF, I worry that by adding EUTF benefits to the collective bargaining process, we may exacerbate the dysfunctional process of determining a quality and affordable health care plan for our workers. In fact, this measure may engender the exact opposite outcome.

"Additionally, given our State's current budget constraints, I worry that this bill compromises the Governor and the Executive Branch's ability to manage costs, which has an impact on the entire State as we work to create a balanced budget for this fiscal year and in future years."

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

"Mr. Speaker, in support. Just a quick note that this bill does not split up the bargaining process into separate bargaining units. It simply allows for the bargaining of benefits as opposed to simply the dollar amount. I think the assertion that's something different is incorrect.

"Also I would just say that the current bill, there's been a lot emphasis on the cost aspect of this, rightfully so because it's an expensive part of what we do in the government. But I do think it's important to know that to point out that the arbitration process as it stands now is as fair as can be imagined where you have three arbitrators. One chosen by the unions. One chose by the employer being the government, the State and the counties. And the third one, if the two other arbitrators can't decide who they're going to pick, they take one from the list of the American Arbitration Association, which is what all private sector companies do too whenever they're arbitrating any kind of dispute.

"So there are cost considerations, but there also is an issue of just fairness with regard to the price that we pay for things, and the amount of money that we support our public workers who do the government's work for us. 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. 1078, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1547) recommending that S.B. No. 1088, SD 1, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the committee be adopted, and that S.B. No. 1088, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Yes, Mr. Speaker. I'm standing with reservations on this matter. Just a quick comment. My reservations pretty much circle around the aspect of where in this bill, benefits are paid indefinitely. Before there was a time limit, a cap. Now it's kind of indefinite and that makes me feel a little queasy, having an indefinite period of time when a benefit could be paid. Thank you."

Representative Johanson 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 Johanson's written remarks are as follows:

"Mr. Speaker, I rise with reservations on SB 1088. I have some concerns with the proposed changes to existing law, primarily the language that states an "individual shall be exempted from the work search requirement," while on unemployment. Such a change may have the potential to perpetuate and facilitate individuals remaining on unemployment for a greater length of time. I think we should instead look to create mechanisms within our unemployment system that help individuals return to work and foster self-sufficiency."

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

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

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

"Mr. Speaker. Thank you. Just with regard to the concern about the indefinite period of the benefits being paid. No, they're not indefinite. The very maximum it's a 6-month period that we pay unemployment benefits in general, but the bill requires that the only way that you're eligible for these is if you're already attached to an employer who's going to hire you back and who has made it clear that they're going to hire you back, either by giving you a definite date or by keeping you on the books with regard vacation time or sick leave. So this is not open ended. Thank you."

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

"Thank you, Mr. Speaker. I stand in support. I would just like the words of the Chair of Labor entered into the record as if they were my own. And with the Members' indulgence, just a brief explanation of why this is important for my community, and for the businesses in my community, believe it or not.

"This very Legislature, several years ago, before my time, passed a law that basically banned certain kinds of visitor activity operations during whale season thereby putting a lot of people out of work. Now they know that they're going to come back to work at the end of the whale season in May, but until that time they can't go out and get part-time work because they will lose their benefits.

"Meanwhile, their services are in big demand for the other activity operators especially given their mechanical and technical skills, but they can't hire them. So you have a situation where you have people who want to go to work, who don't want to pull down full-time unemployment, who are going to be out of work because of the law that this very Body passed, and yet cannot go to work for the other industries that sorely need them.

"So I ask for Members to keep that in mind as this measure move forward in Conference and hopefully, what can come out will be a win-win for everybody. Thank you."

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

Representative Marumoto's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition to this measure that makes various negative changes to the Unemployment Insurance law.

"I take strong issue because it undermines our work ethic. For "attached employees, we get "work comp" if we are laid off. We get full benefits for

part-time work. We don't have to seek gainful employment. We can quit anytime; we don't have to get laid off. This bill will be a drain on our Unemployment Fund when have borrowed from the federal government and must pay it back.

"The heart of this bill is the elimination of the requirement that those individuals who are on partial unemployment have to go back to the employer they are attached to within eight weeks of losing their job or else they will be totally unemployed. The advantage of a person being on partial unemployment is that is he or she is not subject to the 8 week work search requirement of unemployment benefits, meaning he or she doesn't have to look for a job.

"This bill makes that situation worse by completely eliminating that eight week time period. Now, that person on partial unemployment can continue to collect work comp indefinitely as long as that person maintains some sort of connection to the original employer

"This goes against our unemployment compensation system. The very heart of that system is that, in exchange for offering a safety net for people who fall on hard times, is that they must be actively searching for a job. This legislation goes against that concept. He or she can just sit at home and do nothing to justify receiving the unemployment check.

"I know that it is nice that the individual is connected to an employer, but at some point we have to say that the partially unemployed individual has been on work comp long enough. The individual has to look for work. We cannot extend partial unemployment up to the limit.

"I think it is also useful to look at the history of this legislation. In 2009, we established that 8 week limitation into law through Act 170. The original time period was actually four weeks, but it was extended to eight weeks in recognition of the recession. As noted by the Chamber of Commerce's testimony on this bill, the Finance Committee report for that underlying measure stated it would "help employers retain employees' loyalty and productivity during the current recession." That point was further emphasized in the Act itself by the establishment of a sunset date in 2012. This bill eliminates that sunset date, so instead of providing temporary help during a deep economic recession, we are extending this benefit and making it easier for people to get "on the dole".

"A second way this bill undermines our unemployment compensation system is that it establishes numerous ways for people on partial unemployment to quit a subsequent part-time job and still receive unemployment benefits. Mr. Speaker, unemployment benefits are available to people who lose a job through no fault of their own. This bill changes that very fundamental idea. Unemployment compensation is there to help people who lose a job. We should not make it easier for people to voluntarily quit and go back to collecting unemployment.

"Finally, it must be mentioned that our UI Trust Fund is still under tremendous stress. It is already running at a deficit, and our employers are being asked to assume a greater financial burden by paying more into it each year. With this legislation, we are making it easier for people to collect those benefits, and make the Fund's situation even worse. This is not fair to employers, and these additional costs will harm their ability to begin hiring again. We need to recognize that fact, and not do anything that burdens the UI Trust Fund payouts even further.

"Mr. Speaker, I fully support the safety net that our unemployment system provides people, but there has to be limits. There are certain expectations that we have to place on recipients, and I feel that this bill undermines those expectations, our values and our work ethic. 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. 1088, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT INSURANCE BENEFITS," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Marumoto and Pine voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1549) recommending that S.B. No. 1341, 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. 1341, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1551) recommending that S.B. No. 1076, 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. 1076, SD 1, HD 3, pass Third Reading, seconded by Representative Evans.

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

Representative Marumoto's written remarks are as follows:

"I oppose this bill that allows employees to use their negotiated sick leave without retaliation from management. "I call this "the Surf's Up" bill. I have voted against this measure for several years – often the only legislator to do so.

"I am not opposed to employees using their sick leave when they are sick. I do not condone employer retaliation of employee use of legitimate sick leave. However, I do oppose employees using sick leave when they are not sick, when they frequently take a day off before or after a weekend, when their chronic absences force other employees to take up the slack, and, often, when the surf's up.

"Employers do not have any recourse if the sick leave has been awarded through collective bargaining. It helps those frequently claiming sickness and burdens other workers who take up the slack."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1076, SD 1, HD 3, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT PRACTICES," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Marumoto voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1554) recommending that S.B. No. 1393, 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. 1393, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

Representative Tsuji's written remarks are as follows:

"This bill would authorize the inclusion of dams and reservoirs serving important agriculture lands when calculating total acreage for IALs. It would also provide tax credits for dam remediation.

"The Legislature passed IAL initiatives with the goal of encouraging new, viable farms and ranches. In turn, this helps preserve agricultural lands for future generations. Water is a necessary component in this scenario, and dams and reservoirs efficiently manage the use of valuable water resources. Hawaii cannot afford to neglect its dams and reservoirs, especially when we are striving towards food sustainability.

"Stakeholders stated to the Committee how they believe this bill will greatly assist dam and reservoir owners as they attempt to finance the costs

of upgrading their dams and reservoirs to meet DLNR's regulatory safety requirements.

"By providing dam owners with a financial incentive to meet additional regulations, the landowners will be encouraged to keep their dams operating efficiently and safely. This benefits Hawaii's farmers, ranchers and our ag communities."

Representative Hanohano 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. 1393, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1556) recommending that S.B. No. 249, 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. 249, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Yes, Mr. Speaker. I wish to speak against this measure. And it is with some difficulty because I know how difficult it is to operate a ranch without having a slaughterhouse, if I can use that term. However, in checking with some ranchers who are well aware of the problem, they feel that basically there is no way that the slaughterhouse can make it.

"Inasmuch as hogs are concerned, my understanding is one of the reasons they need the slaughterhouse is it's mostly for the hogs. In following up on that, my understanding is the hogs are shipped dressed already, and chilled. Hardly any of hogs are slaughtered here.

"There is no dairy in Honolulu, and slaughterhouses are usually used to, if I can use the term, 'send the cows to their maker' when they're not productive anymore. And for that reason you need a slaughterhouse. But they don't have a dairy in Honolulu.

"So when you put all of this together, there's no way that the slaughterhouse, or this meat processing plant can make it in Honolulu. In fact, an offer has been made by some people in Maui for about a million dollars for the whole plant. And my understanding is that we're looking at about $8 million.

"So with this kind of information, I need to vote against this measure. I'd like to make clear that it is not because of the emails that I've been getting. It has nothing to do with it. The question is strictly economics. And the precedent the State will set up by buying this meat processing plant. Thank you, very much."

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

"Thank you, Mr. Speaker. I rise in strong support of this measure. Mr. Speaker, there are many things that come to mind when someone mentions Hawaii. Our warm weather, our Hawaiian beaches, our great surf. But rarely what comes to mind perhaps are our cattle ranches, our cowboys. Hawaii is home to one of the largest cattle ranches in the United States. And our *paniolo* culture runs deep. We give them nomenclature, the *paniolo*.

"Indeed there are ranches throughout Hawaii and they're part of our history. They're part of our heritage, and they're the cornerstone of the agricultural industry. We recently had Prince Kuhio Day. Price Kuhio was an avid supporter of the cattlemen. He himself enjoyed it. It's written how he enjoyed going out with the *paniolo*.

"Today with fierce outside competition and the global economic shock, our agricultural industry is struggling tremendously. Uncertainty is on the horizon, but this bill is one of those that promotes food security to grow our agricultural industry. We just had a tsunami in Japan. I mean, what are we doing about sustainability? What if something were to get cut off? We want to be independent. Be able to feed ourselves.

"The Hawaii Livestock Cooperative Slaughterhouse at Campbell Industrial Park is the only one on the island. And Oahu is 80% of the meat consuming market in the State. The parcel of land that the HLC facility sits on is already owned by the State and so is the structure. The appropriation is mostly for capital improvements to the leasehold property, as well as the equipment.

"With many of our local Oahu residents wanting to support local, buy local, instead of meat that is flown in from the mainland. A facility such as this is necessary. Having a meat finishing facility on Oahu also means that cattle ranchers can process more beef in Hawaii, establish a premium grass-fed specialty meat industry. Hawaii-grown and grass-fed beef could become and actually is a gourmet food. So there's much promise for the agricultural and food security in Hawaii if we at the Legislature maintain the foresight to pursue it.

"You know, it always was interesting for me to note how Restaurant Row, not far from here, had many, many closures . Sunset Grill, other ones around there. You know, who expands in Hawaii? Ruth's Chris. We love our steak. We love our steak. I mean, let's just be honest. We go out. We go luau. We go anywhere. We love our meat. In fact, there are some who will go so far, if you go to a local event and there's no meat you, 'Aiyah,' right? So the thing is, why not do it here in Hawaii? Profit. Help our *paniolo*. Win win. Thank you, Mr. Speaker."

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

Representative Jordan 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 Jordan's written remarks are as follows:

"I have reservations on SB249, SD2, HD2. While I recognize the need for a local slaughterhouse to ensure food safety in the slaughter of hogs and cattle on Oahu and food sustainability in our State, I have large concerns about the State investing $1.6 million only in equipment and liability of this operation since the State currently owns the warehouse and land it sits on.

"The better option is to just foreclose on the 2 outstanding loans owed to the State totaling about $600,000. This investment could come with additional unexpected facility and equipment costs, which will be a liability to our already strained State budget. In addition, the number of slaughters conducted by the facility has been insufficient to be profitable.

"In this time of economic crisis, encouraging our State to invest in an unprofitable facility and no operational history causes great concern for our future State debt. A much more affordable option may be to create mobile slaughterhouses on Oahu at a fraction of the requested amount of $1.6 million which has the ability to travel to local farms, has updated equipment, and does not require facility or land maintenance.

Representative Marumoto 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:

"Reservations just on the cost. Thank you. And I wanted to insert written comments with reservations."

Representative Pine's written remarks are as follows:

"Mr. Speaker, I rise in support with reservations. What S.B. 249 does is make an appropriation to the Department of Agriculture for the State to acquire the slaughterhouse at Oahu's Campbell Industrial Park. Generally, I am against using State funds to acquire a private business. However,

given the desire of us in Ewa Beach to be self-sufficient and given Hawaii's geographic isolation – this slaughterhouse facility will give us in Hawaii the ability to feed ourselves should a natural disaster cut us off from the rest of the world, even if for a short while.

"What I object to, however, is its cost: Given that the State has already made loans to the owners of this slaughterhouse and has in essence already paid a vast amount of money to these owners, the State should negotiate a better price for the public. Further, we can also not pay out a large portion of the State's limited cash because we should also cut from any cash outlay the portion of these loans which these owners still owe the State.

"We should not be overpaying for this. So because these prudent considerations about cost were not part of this bill's deliberations, I can only vote for this bill 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. 249, SD 2, HD 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO THE DEPARTMENT OF AGRICULTURE," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Brower, Rhoads and Souki voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1558) recommending that S.B. No. 14, SD 2, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the committee be adopted, and that S.B. No. 14, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

Representative Tsuji's written remarks are as follows:

"This bill would allow certain ag special funds to go towards the improvement of dams and reservoirs. It would also allow the monies to fund investigative studies to identify and assess necessary improvements to dams, reservoirs, irrigation systems, transportation networks and water quality testing and improvements.

"This bill will assist dam and reservoir owners as they deal with financing the significant additional costs to upgrade their dams and reservoirs to meet regulatory requirements. Providing dam owners with a financial incentive to improve their facilities raises the likelihood that more facilities will be kept in continued operation, with fewer decommissioned due to the high cost of compliance.

"Recent news articles reported on the severe drought that continues to plague our State, illustrating agriculture's paramount need for water. Dams and reservoirs together with irrigation systems provide necessary water resources for the agricultural industry and communities statewide. We should not neglect these structures, and I ask my colleagues to join me in support of the measure."

At 2:07 o'clock p.m. Representative Evans requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 2:08 o'clock p.m.

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 14, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL DEVELOPMENT," passed Third Reading by a vote of 51 ayes.

At 2:11 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1078, SD 2, HD 1
S.B. No. 1088, SD 1, HD 1
S.B. No. 1341, SD 2, HD 1
S.B. No. 1076, SD 1, HD 3
S.B. No. 1393, SD 2, HD 2
S.B. No. 249, SD 2, HD 2
S.B. No. 14, SD 2, HD 1

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1560) recommending that S.B. No. 98, 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. 98, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. In strong support and I'd like to ask for permission to insert comments into the Journal. Thank you."

Representative Tokioka's written remarks are as follows:

"Thank you, Mr. Speaker for allowing me to stand in support of SB 98. The intent of this bill is to level the playing field for water carriers throughout the state of Hawaii. The PUC's recent decision to allow a new water carrier into the market place even though it would not service all of the routes, especially to the smaller markets, seems to be very unfair. The passage of this bill will allow for fair competition minus unfair advantages in the PUC water carriers market.

"Thank you Mr. Speaker, for the opportunity to speak in support of SB 98."

Representative Hanohano 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. 98, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WATER CARRIERS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1561) recommending that S.B. No. 1324, 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. 1324, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO RENTAL MOTOR VEHICLE SURCHARGE TAX," passed Third Reading by a vote of 45 ayes to 6 noes, with Representatives Fontaine, Marumoto, Pine, Thielen, Ward and Wooley voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1562) recommending that S.B. No. 1328, 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. 1328, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

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

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

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

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

Representative Ichiyama's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support. This bill proposes to increase the motor vehicle registration fee from $25 to $45, the proceeds going into the State Highway Fund. The State Department of Transportation (DOT) relies on the Highway Fund to implement its strategic plan for highway improvements across our islands. It is essential for the safety of our residents and visitors that our roads, bridges and sidewalks are maintained in good condition.

"Many of my constituents have expressed concerns about the numerous potholes on the on-ramp to the H-1 by Mapunapuna. We use this on-ramp daily, often swerving from side to side to protect our cars, trucks and vans. The Director of DOT testified that due to insufficient amounts in the Highway Fund, they have extended the repaving schedule of our roads to every 14 years instead of the recommended 10 years. DOT is focused on repair and maintenance, not new projects, as we cannot sustain the current system. Ideally we should be spending $86,000,000 each year on maintenance for our highway system, but the Highway Fund does not even come close to that amount. Having a low balance also negatively affects our ability to qualify for federal matching money for highway projects.

"I understand the financial pinch that many of our local families are feeling, but this is a demand that we cannot ignore. A failure to maintain our highways results in reduced road space, deteriorating infrastructure, increased accidents and increased liability. Thank you, Mr. Speaker.

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

Representative Johanson's written remarks are as follows:

"Thank you, Mr. Speaker. I oppose SB 1328. I would point out that if the Legislature had not previously raided the Highway Fund, this measure would be unnecessary. As I have said previously on the House version of this measure, I do believe the State must work to improve our roads and highways and I recognize the intent of this bill is to raise revenue for the State Highway Fund. However, I believe this measure is one that my constituents cannot afford at this time.

"These are difficult times for everyone in Hawaii and this fee increase will add to the cost of living for many of my constituents because of its broad-based nature. Many of my constituents are barely getting by financially and this is not the right time for this fee increase on everyone who drives."

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. 1328, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE REGISTRATION," passed Third Reading by a vote of 35 ayes to 16 noes, with Representatives Belatti, Brower, Ching, Fontaine, Har, Johanson, Keith-Agaran, C. Lee, Marumoto, Morikawa, Nishimoto, Pine, Takai, Thielen, Ward and Wooley voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1563) recommending that S.B. No. 1329, 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. 1329, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

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

Representative Johanson's written remarks are as follows:

"Mr. Speaker, I rise in opposition to SB 1329. I would point out that if the Legislature had not previously raided the Highway Fund, this measure would be unnecessary. I wholeheartedly support the intent of this measure and its efforts to raise revenue for the improvement of our roads and highways. However, I do not believe our constituents can afford a widespread fee increase such as the one proposed in this bill, which will exacerbate their already high cost of living, merely for the privilege of continuing to drive. I do believe this particular tax increase will hurt most of the people in my district and adversely impact many of our constituents statewide. This is a broad-based tax increase that will hurt families, seniors, and those individuals barely managing to make a living in Hawaii these days."

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

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

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

Representative Ichiyama's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support. This bill proposes to slightly increase the motor vehicle weight tax, the proceeds going into the State Highway Fund. The State Department of Transportation (DOT) relies on the Highway Fund to implement its strategic plan for highway improvements across our islands. It is essential for the safety of our residents and visitors that our roads, bridges and sidewalks are maintained in good condition.

"Many of my constituents have expressed concerns about the numerous potholes on the on-ramp to the H-1 by Mapunapuna. We use this on-ramp daily, often swerving from side to side to protect our cars, trucks and vans. The Director of DOT testified that due to insufficient amounts in the Highway Fund, they have extended the repaving schedule of our roads to every 14 years instead of the recommended 10 years. DOT is focused on repair and maintenance, not new projects, as we cannot sustain the current system. Ideally we should be spending $86,000,000 each year on maintenance for our highway system, but the Highway Fund does not even come close to that amount. Having a low balance also negatively affects our ability to qualify for federal matching money for highway projects.

"I understand the financial pinch that many of our local families are feeling, but this is a demand that we cannot ignore. A failure to maintain our highways results in reduced road space, deteriorating infrastructure, increased accidents and increased liability. 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. 1329, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE WEIGHT TAX," passed Third Reading by a vote of 40 ayes to 11 noes, with Representatives Belatti, Fontaine, Johanson, C. Lee, Marumoto, Morikawa, Pine, Takai, Thielen, Ward and Wooley voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1564) recommending that S.B. No. 1493, 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. 1493, SD 1, HD 3, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise in support with reservations. I believe that all new lighting projects should conform so as to preserve the quality of the night sky. However, I foresee problems with the replacement of fixtures.

"Kauai County is in the process of changing athletic facility lighting and the expense is tremendous. Here on Oahu, while driving down North King Street, I noticed about a mile of beautiful decorative, old fashioned, lamp poles. I don't know if those lights actually work, but if they do and they

eventually need to be replaced the responsible agency needs to be prepared to change or retrofit all of those lights to meet the criteria of this bill.

"Ultimately however, we should all pursue this goal, but we need to give agencies time and resources to achieve it. Thank you."

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

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in strong support of SCR 1153, S.B. 1493 - Relating to Light Pollution. If enacted, this bill would enact the recommended legislation of the Starlight Reserve Committee. Specifically, this piece of legislation would require that all new and replacement outdoor light fixtures use a full-cutoff fixture with a few exemptions.

"I am in support of this bill for two very specific reasons. First, economic impact. At present, astronomy is responsible for an estimated $150 to $200 million in revenue per year. For the observatories on Mauna Kea and Haleakala to operate at optimum levels we must preserve Hawai'i's visibility of the stars by minimizing light pollution. This measure supports this goal.

"Second, there are health and safety concerns. As is cited in the testimony of Starlight Reserve Committee Chairman, Richard J. Wainscoat, "Fully shielded lights emit much less light at near horizontal angles, meaning that light trespass is substantially reduced. Light from adjacent properties or from streetlights entering our bedrooms is a form of light trespass. It can make it difficult to sleep at night. Excessive light at night has been linked to some forms of cancer, particularly breast cancer."

"I share Mr. Wainscoat perspective and concern on lights ability to influence our health and wellbeing and for these reasons, I support S.B. 1493."

Representative Hanohano 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. 1493, SD 1, HD 3, entitled: "A BILL FOR AN ACT RELATING TO LIGHT POLLUTION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1565) recommending that S.B. No. 823, 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. 823, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Marumoto voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1566) recommending that S.B. No. 1327, 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. 1327, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PASSENGER FACILITY CHARGES," passed Third Reading by a vote of 51 ayes.

At 2:17 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 98, SD 2, HD 1
S.B. No. 1324, SD 2, HD 2
S.B. No. 1328, SD 1, HD 2
S.B. No. 1329, SD 1, HD 2
S.B. No. 1493, SD 1, HD 3
S.B. No. 823, SD 1, HD 1
S.B. No. 1327, SD 2, HD 1

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1567) recommending that S.B. No. 1555, 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. 1555, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Hanohano 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. 1555, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF LAND AND NATURAL RESOURCES," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Brower voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1568) recommending that S.B. No. 1219, 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. 1219, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Hanohano 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. 1219, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE LANAI WATERSHED," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Carroll, Pine and Riviere voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1569) recommending that S.B. No. 1511, 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. 1511, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

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

Representative Awana 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 Awana's written remarks are as follows:

"Mr. Speaker, I rise in support with reservations. My concern is the length of the lease before an audit of leased lands has been completed. My other concern is using the Department of Transportation lands for aquaculture which in testimony the DOT was against. In addition DOT stated by allowing aquaculture in an area that receives funding for federal transportation dollars, this may jeopardize funding. This is recipe for disaster. For these reasons, I ask this Body to move cautiously as this measure goes to Conference."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1511, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AQUACULTURE," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1570) recommending that S.B. No. 1549, 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. 1549, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

Representative Hanohano 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. 1549, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SMALL BOAT HARBORS," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Brower voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1571) recommending that S.B. No. 903, SD 1, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the committee be adopted, and that S.B. No. 903, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

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

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support with reservations of SB 903. While this is an important bill to ensure that critical housing resources remain affordable. However, there are several problems with the mechanics of the affordable rental housing development program.

"According to HHFDC, while it is able to contact and encourage owners of expiring HUD and USDA-RD projects to either extend or transfer their interests in such projects to nonprofit organizations, we cannot require private property owners to negotiate if they are not inclined to do so. Additionally, HHFDC also cannot require private property owners to cede their ownership interests to any other person or entity, including nonprofit organizations without additional appropriated funds to cover the full market value of these projects.

"My reservations lie in the perpetual affordability requirements will hinder private sector participation in the preservation of HUD-assisted projects. First of all requiring a property to remain affordable beyond its useful life is not reasonable. Second, nonprofits pledge to keep their projects affordable over the long-term (typically 50 to 60 years). Restrictive land use covenants, including the agreed-upon term of affordability, are recorded and run with the land. Government cannot impose regulations that apply beyond the term of government assistance. This requirement will stifle reinvestment in the project and preclude the option for redevelopment of the project site in the future. Even nonprofits in the business of providing affordable housing would like the option to sell a poorly performing project to reinvest in another rental project. 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. 903, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Riviere voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1572) recommending that S.B. No. 912, SD 2, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the committee be adopted, and that S.B. No. 912, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Yes, I needed to declare a potential conflict on Stand. Com. Rep. Nos. 1572 and 1574. I work occasionally for a homeless shelter," 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. 912, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1574) recommending that S.B. No. 900, 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. 900, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

Representative Jordan 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 Jordan's written remarks are as follows:

"I have reservations on SB900, SD2, HD2. I appreciate that this bill is intended to help address the needs of the unsheltered homeless population by establishing safe havens in surplus or available open or vacant locations. The concerned questions arise with security, sanitation, legal liabilities and entry criteria. The focus should remain on providing safe, decent and affordable housing to address this issue and not create a new way of life that could become difficult to undo for our most vulnerable population.

"For many years my community has been inundated with homeless encampments stretching along the entire coast. I have seen firsthand the many issues that homeless have encountered, and heard the outcry of community members requesting something be done to clean up public spaces. These are hard choices and we again, must remain focused on providing housing and not open spaces for temporary stays."

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

Representative Johanson 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 Johanson's written remarks are as follows:

"Thank you, Mr. Speaker. I rise with reservations to SB 900. I appreciate and honor the solutions before us to combat homelessness here in Hawaii, which I believe to be of grave concern for all of us of here on the Floor today. While I recognize the need to find immediate and effective solutions to these challenges, my reservations with this particular measure center on whether or not the use of State facilities are going to be utilized by the homeless, if these facilities will be safe and secure, and quite frankly, how the use of State facilities to temporarily house the homeless might impact the surrounding community at large.

"I am in full support of measures and programs that create long-term solutions to our homeless problems, but I am concerned that this measure may create only partial solutions to a much broader problem. Moreover, this measure may create a new set of challenges for our communities. We must address the problem of homelessness in a comprehensive, systematic fashion that helps solve the root of the problem.

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

"Yes, Mr. Speaker. Please note my opposition to this measure. Although on the surface this sounds well-intended, to corral or warehouse homeless in parking lots. There are a number of concerns that we may need to address with this. One of them is sanitation, and the safety of those individuals who are now living in their cars in a parking lot, their overall safety. And what kind of cost and liability there may be if something happens to someone while they're occupying the parking lot and utilizing it for this fashion.

"We heard from various homeless groups that help the homeless who are also opposed to this measure and don't feel that this is the direction we should be going. We should be looking at trying to provide more affordable housing and looking at more shelter options, versus having people living in their cars. Thank you."

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

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:

"Mr. Speaker, I rise in support with reservations on Stand. Com. Rep. No. 1574, SB 900, SD2, HB 2. I support the idea of attempting to address our growing homeless issues. This is a short-term answer and I appreciate the Committee Chairs that passed this measure forward. However, this bill does not address some of the core issues surrounding homelessness. Services that address drug and substance abuse along with mental health issues are items that should be included in this measure.

"Providing temporary shelter is very meaningful and needed, but I believe we are missing these key puzzle pieces to make this endeavor more effective. Thank you, Mr. Speaker."

Representative Cullen 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. In support. Thank you. Clearly homelessness has become quite a front-page issue over the last couple years, but obviously not a new problem to Hawaii. What this bill does is it tries to provide perhaps not the most ideal solution, but maybe something that can be done for the short term to address the issue of homelessness.

"I know there are many concerns on where we will place it. Whether or not there will be programs and services for those at the location, and so on and so forth. But I would say that if we want to provide a place for people to be able to go, off the street such, as is being reported on say, Kuhio Avenue, or Kalakaua Avenue where not only have they encroached residential areas, but our tourist area. You have encampments, as well as defecation. And now it is permeating, like I said, into the residential and now our tourist industry.

"Is this the most ideal situation and solution? No. But it is one I think, of the options that we need to take a look at as a stop-gap measure. Do we need to build more affordable housing? Absolutely. Are we going to do it in the next three to six months? I don't think so. It's not going to happen. And can we have more shelters? Yes. And I would be very supportive of anybody who would like to introduce even a resolution with their name on it, putting it in their own district.

"So let's be real. We have these people, brothers and sisters, living in the parks, on the streets. They have no place to sleep, and put their head down in peace.

"One of the people who came to the Housing Committee who worked with homeless, as well as having been a homeless person, they were talking about clearly, the mental health issues. One of the Committee members asked about treatment, medication, and things of that nature. One of the people had responded in saying, 'I don't take my medication because generally anti-psychotics make you dull. And if you're sleeping on the street and you want to protect yourself physically from attack or being assaulted, or having what little possessions you have being taken away, you don't take it because you cannot defend yourself.'

"And so while we don't have as much affordable housing as we would like, or as much shelter space as we would like, I think this should be something for consideration and for the Members to address the short-term issue while we can work on some of the more medium- and long-term solutions. Thank you."

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

"Thank you, Mr. Speaker. In support. I used to joke that the issue of homelessness wouldn't be taken as seriously as it should at the State Capitol until homeless began to populate our State Capitol lawn. Last night was one of several nights where I walked home late at night, after 11 p.m. And as I left the Capitol there were three people sleeping in the cement areas near the Rotunda. I often walk through the district late at night, and I try to walk on the back streets of Kakaako. I passed several encampments where the homeless are just sleeping right on the doorsteps of private businesses there, and we get these complaints often.

"I support this bill because it's modeled a lot like a resolution which I authored two years ago on homeless safe zones. And part of the issue is that the chronic homeless will not go into affordable housing for various reasons, and that's why I think we really have to think 'outside the box.' And there isn't going to be a perfect solution, but I know that when a natural disaster strikes the first thing that government does is it takes the people who are homeless and provides shelter for them. So why shouldn't our response be any different during what I'll call an economic disaster. Thank you."

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

"In support, Mr. Speaker. And I just would like to first thank the Representative from Waikiki for giving us, with the Chair of Human Services, in giving us this option of a safe haven. I would like to thank him again, for his wisdom.

"And second, I would like to make a correction. This bill that we have before us is not about parking lots. So Members, if you would read the bill, it is not about parking lots, but rather to address the public health issue that's at hand.

"I have toured a lot of encampments for the homeless, and the stench of urination and defecation around the area is something that we need to be concerned about. This bill is about building toilets, showers, washing machines, and water fountains so the homeless people have somewhere to go to relieve themselves as opposed to doing it everywhere. So to the contrary, Mr. Speaker, this is for public health being addressed in this bill. Thank you."

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

"Thank you, Mr. Speaker. In support. Mr. Speaker, this bill is not a 'silver bullet' for homelessness. It certainly is not a panacea, and I will say that it is a work in progress. But I believe it provides options not only for the safety of our homeless persons or population, but also for the residents, the area residents around this safe zone wherever it may be. So I see this as an option.

"We have to do something. We have already outlawed our homeless population throughout the State and there just needs to be flexibility and a place for them. And so I believe in this option, and I support this measure. Thank you, Mr. Speaker."

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

"Yes, I needed to declare a potential conflict on Stand. Com. Rep. Nos. 1572 and 1574. I work occasionally for a homeless shelter," and the Chair ruled, "no conflict."

Representative Pine continued in opposition to the measure, stating:

"I would like to speak briefly in opposition to Stand. Com. Rep. No. 1574. I have tried very hard, as someone who works in the industry, to support this measure because I do believe that the introducers care a lot about the homeless and want to solve this problem. But just some of the words I've been hearing, I feel it it important for me to clarify what causes homelessness.

"What causes homelessness is poverty and lack of housing. It's not just drugs and things like that. You can have a wealthy drug addict, but they still have a home and they won't be homeless. And I think what concerns me the most is the reason why we're all seeing more homeless in our districts, it is because poverty has increased.

"And if you look at the overall picture of what we're doing today. What causes poverty is the inability to afford your cost of living, and what we have done so far since 9:00 this morning is we raised multiple taxes and fees which would cause poverty for some people. We have potentially reduced the amount of housing that we can produce by taking away some tax credits for those that build affordable housing. And so I hope as we continue to talk about homelessness, let's first look at what causes it.

"The reason why I'm so concerned about creating these areas where the homeless will go is, well the Representative from Waikiki had mentioned that we can't even get people into shelters. How are we going to get these people to go into these areas that we want to create if that's what we're trying to solve? The Representative from Kaneohe said that a person testified in Committee that he didn't want to take his psychotic medicine. Well for those of us in the homeless industry, this is what concerns us. We see it every day and so we're going to force people to go in these areas with their children, with men like this that don't want to take their psychotic medicine.

"And so while I know that this is well-intended, but I just feel like every single penny that we have should go into building more affordable rentals. More affordable housing where people can possibly purchase like we do with Hawaiian Homelands. And we should also definitely stop passing bills that cause poverty."

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

"Yes, a short comment. I'm in favor of this with a number of concerns. One is the history of providing funding for the homeless has been very negligible, and until I can see some dollars, I will be very cautious and have reservations. As the old saying goes, if you really believe that you need to take care of the problem, show me the money."

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

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

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

"In support. I just differ on what the cause of poverty is. I don't think there's any question that poverty has increased in this country in the last few years, but I think it's pretty clear that the reason that more people fall into poverty is not that we've raised taxes incrementally at the State level. It's that the private sector had a major meltdown that practically put the whole world into an economic tailspin, and that's where the poverty was derived from. Not from the fact that this Body has very marginally raised taxes over the last couple years. Thank you."

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

"In support with some written comments. But also I would just like to add that it's not just taxes that are causing homelessness. It's basically mental illness, and substance abuse, and the lack of treatment thereof. Thank you."

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

"Mr. Speaker, I rise in support. The homeless problem is getting worse and suggested solutions are many, but none are perfect.

"This bill would place sanitary facilities in an undesignated place which would allow homeless to set up temporary shelter. "Safe Haven" is probably not the best term here as a shelter such as this could not possibly be a haven.

"Services such as medical, legal and social would be available here and the land used would be most likely State owned.

"Personally, I am very much in favor of the Housing First concept; however, finding a building or landlords willing to take in the homeless is difficult. The Safe Haven concept would be an alternative to the shelter and superior to having people pitch their tents on the street. It is worth a try. "

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 900, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HOMELESSNESS," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Fontaine, Har and Pine voting no.

At 2:34 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1555, SD 2, HD 2
S.B. No. 1219, SD 2, HD 2
S.B. No. 1511, SD 1, HD 2
S.B. No. 1549, SD 2, HD 1
S.B. No. 903, SD 1, HD 1
S.B. No. 912, SD 2, HD 1
S.B. No. 900, SD 2, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1575) recommending that S.B. No. 1073, 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. 1073, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

Representative Marumoto's written remarks are as follows:

"Mr. Speaker, I am in favor with reservations on SB 1073, SD2, HD2 Relating to Surcharge for Indigent Legal Services. This bill increases the amount of surcharges for the indigent legal assistance fund to provide basic civil legal needs for access to shelter, medicine and custody of children, among other things. It requires the Hawaii Justice Foundation to review, on a biennial basis, the indigent legal assistance fund to determine whether it is meeting the civil legal needs of indigent persons, and report to the Legislature starting in 2014. These are all very worthy services.

"However, I have reservations about this bill. It raises the District Court fees from $10 to $25 in 2012, and to $35 in 2014. That amount will go to organizations providing indigent legal services. It raises Circuit Court fees from $25 to $50 in 2012, and to $65 in 2014. The civil action in the Court of Appeals fees will go from $25 to $50 in 2012, and to $65 in 2014 for civil actions. Organizations such as Legal Aid Society of Hawaii,

Domestic Violence Action Center, Mediation Center of the Pacific, Hawaii Disability Rights, Hawaii Justice Foundation, Hawaii Immigrant Justice Center, ACLU can apply for grants to access the money.

"While I believe it is worthy of these groups to provide legal services to those in need, my concern is that the fees are now large so as to be a burden on smaller legal firms and their clients who are struggling to stay afloat in this bad economy. It will also be a burden on banks and credit unions with many filings – the fees will quickly mount up. So I vote with reservations on this bill."

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

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

"Yes, Mr. Speaker, and Members. I stand with reservations and I would like to see the Bar Association contribute a little bit more and offer more of their services for their indignant people. I would hope that the Conference Committee members, when they go through the Conference on this issue would possibly make some adjustments in the fees. I think the increase in some of the fees and the fines are relatively high. This is beginning to hurt some of the businesses, and I think that is why there are some no votes and those with concerns on this measure. So if they can better share in the costs instead of relying on one particular business, I think it would be a lot more fair. Thank you, very much."

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

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

"May I have a ruling on a potential conflict? I serve on the Board of Directors for Legal Aid, one of the recipients of the fee and surcharge. 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. 1073, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SURCHARGE FOR INDIGENT LEGAL SERVICES," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Marumoto voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1579) recommending that S.B. No. 1347, 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. 1347, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I'm rising with reservations about the bill. Thank you. If the Members would turn to page 7 of the bill, this is another measure that pretty much solely benefits Hawaiian Electric. And on page 7 of the bill it states that an electric utility company, which basically is Hawaiian Electric and its subsidiaries, they can recover through an automatic rate adjustment clause, the electric utility company's revenue requirement. This is in relation to any cost and expenses of a renewable portfolio of the electric utility company.

"So again, the Commission can establish a separate automatic rate adjustment clause or approve the use of a previously approved automatic adjustment rate clause without a rate case filing. It's those last five words that are the key words. Without a rate case filing means that there's no opportunity for the Consumer Advocate to be a part of that process to say on behalf of the consumer, 'We don't believe that this rate increase is legitimate. We don't believe you should authorize it.'

"So once again, you have an automatic rate adjustment going upward for the ratepayers. It shows up on their utility bill, but no intervention by the Consumer Advocate to protect the consumer. Thank you."

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

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

"Thank you, Mr. Speaker. May I have a ruling on a potential conflict? On section 5 of the measure, HRS 486H is the section on gasoline dealers and I'm a part owner of a gasoline station. Thank you," and the Chair ruled, "no conflict."

Representative Pine 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. 1347, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC UTILITIES COMMISSION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1580) recommending that S.B. No. 1270, 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. 1270, 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. In fact Mr. Speaker, I rise in support with kudos and commendations for the Chair of Finance. Earlier the Representative from Kailua had said that, 'I told you so,' regarding the foreclosures.

"Regarding this bill I would hope they would see the Minority website at www.hawaiistatebudgetonline that we showed you so that we can pay it back as this bill does. Take the money for the emergency, but then repay it and allow enough in there for the reinsurance in the event there is a hurricane so we are safe and sound. So I think iron does sharpen iron, and I commend both sides of the aisle for this bill. Thank you."

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

Representative Johanson 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 Johanson's written remarks are as follows:

"Mr. Speaker, I stand with reservations on SB 1270. I have concerns about further tapping the Hurricane Relief Fund to help us balance our State budget as it perpetuates lawmakers' habit of raiding this and other funds in the future. I do appreciate that this version includes a provision explicitly borrowing and repaying money from this fund.

"The State Insurance Commissioner has submitted testimony indicating that insurance experts believe a Hurricane Relief Fund balance of $70 million is sufficient critical mass by insurance experts to leverage for reinsurance purposes should another hurricane strike our islands. Moreover, I prefer this method of borrowing from the Hurricane Relief Fund rather than an increase in the General Excise Tax as a source of balancing our State budget."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1270, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HURRICANE RELIEF FUND," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Thielen voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1582) recommending that S.B. No. 723, 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. 723, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL IMPACT STATEMENTS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1583) recommending that S.B. No. 772, 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. 772, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO BIOFUEL FACILITIES," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1584) recommending that S.B. No. 1363, 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. 1363, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I just need to request a ruling on a potential conflict on Stand. Com. Rep. No. 1584, the plastic bag bill. One of my wife's clients is Safeway. Thank you," and the Chair ruled, "no conflict."

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

"Yes, Mr. Speaker. I would like a ruling on a potential conflict of interest. I'm a consultant with the American Chemistry Council. They produce plastics, and right now I'm hired as a consultant to work with Maui County on the styrofoam problem. Thank you," and the Chair ruled, "no conflict."

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

"Mr. Speaker, I wish to speak against this measure. Inasmuch as I recognize that plastic is a problem and we need to take care of the problem comprehensively, I don't believe this is taking care of the problem of plastic comprehensively. You are only looking at bags. When you go to a supermarket, as probably our new Representative from Kauai can tell you, and you fill your package, probably 9 or 10 items in there have plastic. You buy fruits, and it's usually wrapped in plastic. Meats wrapped in plastic. A lot of the items have plastic and yet none of those plastic items are being taken care of. All those plastic items is going into the waste stream and it's going to be there forever. So you're taking care of one little part of the problem.

"I'm say, instead of having the 10 cents and giving some of that money to the supermarket so that for one year, or whatever the time is, it's better to develop a more comprehensive recycling program and send all these plastic products to H-Power. I think they would love to have to plastic products going to H-Power inasmuch as it's all made of oil. But to take care of only one item when you have dozens of items, literally in that particular market, it serves no purpose to take care of the plastic problem. Thank you."

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

"With reservations. We each have one of these 51 bags in this room."

Representative Morikawa 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 Morikawa's written remarks are as follows:

"I believe that current County Ordinances should govern the ban on plastic bags and not be preempted in any way by this measure."

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

"Thank you, Mr. Speaker. I'd like to ask for a ruling on a potential conflict of interest. We have some grocery stores that we own and operate on Kauai," and the Chair ruled, "no conflict."

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

"Please note my reservations. I have concerns about this measure and how it will affect the counties that have taken steps to ban the use of single-use plastic bags in retail and food service establishments.

"Most notably on Kauai, and that's where I'm from, we've taken a step to ban plastic bags so the only option we have is paper. Now a paper bag is going to run between 12 to 17 cents per bag, and so the current proposal on the table requires the retailer to charge 10 cents, of which 2 cents goes back to the retailer. And that is subject income and general excise tax.

"So if you don't have a plastic bag ban enacted in your county, it may come out to a win win because the cost of a plastic bag is about 1 to 2 cents. And maybe you break even. But on islands like Kauai where our only option is either to provide no bag or a paper bag, the 2 cents coming back to the retailer doesn't cover the cost of the bag, and it does not cover the cost of all the implementations that would be required. You have a checkout teller that now has to count how bags they are being distributed. And you have to break the fee out in your accounting department.

"So for the small businesses, and the 'mom and pops,' it would be an excessive burden in my opinion. And this is for counties that have taken the right step to eliminate the use of plastic bags. So please note my reservations, Mr. Speaker. Thank you."

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

"Thank you, Mr. Speaker. In opposition. Thank you. Again, I have no qualms with the underlying tenants of this bill to achieve a friendlier environment. What I do worry about is my constituents' ability, as well as all of our constituents' abilities to absorb the costs that we would be passing on through this measure. So given the hard economic times that all of our constituents live in, that is why I will be voting in opposition. I also ask for further written comments to be inserted into the Journal. Thank you."

Representative Johanson's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition to SB 1363. While I do support the intent of this measure to improve the environment and to proactively reduce the amount of material put into our landfills, I cannot support this particular fee increase. Though it seems like a small fee, I believe the added cost to the grocery bill is not a cost that can be absorbed by our constituents, especially in these difficult economic times. This fee

will increase the already high cost of living because it targets the purchase of necessities such as food and groceries. This added fee will touch everyone, each time they step into a store or business. Again, I do support the intent of this measure and support actions that help increase and improve environmental awareness and conservation. However, this particular fee has too broad-based of a negative impact on all of our constituents. I do not believe my constituents can afford this additional fee."

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

"Mr. Speaker, with reservations. Do no harm to Hawaii's families, which we're in the process of."

Representative Keith-Agaran rose to speak in support of the measure with reservations, stating:

"Mr. Speaker, I like to issue my reservations. And I'd like the words of the Representative from Hanalei adopted as if they were my own, except that wherever he said Kauai, it should be Maui."

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

"Thank you, Mr. Speaker. In opposition. Mr. Speaker, I think that the intent of this bill is certainly laudable and I've discussed this with the Chair of the Energy and Environmental Protection Committee. But my biggest problem with this bill, well I should say I have several problems with this bill. But at this point, let's talk about what's going on at the retail level.

"And with all due respect to my colleague from the 14th District, one of the issues that has come up is with retailers is, and the fact of the matter is this. They spend anywhere between one and six thousand dollars per store, per month, on the purchase of these plastic bags. So while we as consumers receive them free currently, they in fact take that one to six thousand dollars and they incorporate that into their price point. So we, the consumers, are still paying for those bags notwithstanding the fact that they're 'free.'

"So what this bill will do is allow the retailers to still purchase these bags, but we're now paying them for the cost of these bags. But when I ask the retailers this question: Will you now bring down your price points? They will not do that. And to add further insult to injury, they all tell us to institute this bill, but they need some time and money to get this program going. So the Finance Committee, and with all due respect to the Chair, I thank him for only allowing that 20 percent to go to the retailers for one year.

"But again, where are the retailers in all of this? Of course they stood up in support of this bill because we're now paying for these bags for them. But the problem is we're sticking it to our the consumers and our constituents.

"Another problem I have with this is, this is just not the time. This has been a horrible Session. We're now facing another $1.2 billion shortfall. We have just passed a multitude of measures raising fees, raising taxes, and all I can is this: Is this the time for this bill? I submit that this is not the time for this bill.

"Finally, I think that the ones that would be most hurt by this bill will be the seniors. This bill is really about changing people's behaviors, and I submit that I have done that. Because when I go to stores which actually provide me with a discount for every bag I bring in, a reusable bag, they'll give me a 5 cent credit. I submit that's the way to go. We should be incentivizing these retailers to that type of program as opposed to instituting this 10 cents surcharge. Essentially what we're doing is we're taxing plastic bags now, and I just think at this point and time with the economy going the way that it is, this is just not the time for this bill. So for those reasons, Mr. Speaker, I stand in opposition."

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

"Thank you, Mr. Speaker. In opposition. I would like the words of the Representative from Kapolei inserted as my own without the intensity all the exclamation points. Thank you," 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 that the remarks of Representatives Souki, Johanson and Har be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative Awana's written remarks are as follows:

"Mr. Speaker, I rise in opposition. Food is a basic necessity. As we know, many are going without another necessity – shelter – but I will save those comments for another discussion. Transporting food with bags that were already paid by consumers through built in costs is unconscionable. The concern is our landfills, yet most in my district are in opposition to this measure. These are the constituents who carry the burden of the only solid municipal waste landfill. This landfill borders the fastest growing community in the State located in the most populous island.

"In addition, everyone I know recycles their plastic bags. Those in my office recycle bags. The carbon footprint to the eventual disposal of cotton bags is much larger than plastic. The small businesses – mom and pop shops will be burdened. This measure is short sighted, but I can foresee the impacts will be long range and hurting the most vulnerable. Thank you, Mr. Speaker."

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

"Thank you very much, Mr. Speaker. May I have a ruling on potential conflict? We have retail outlets on Maui where we have a plastic bag ban. We have discontinued plastic bags, but there is potential for us to reinstitute that with this bill. Thank you very much, Mr. Speaker," and the Chair ruled, "no conflict."

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

"Please note my reservations. And my reservations are just from the standpoint that we are like others who have concerns about just raising the cost to our consumers. So that is my concern. Thank you."

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

"Please note my reservations. I'll submit the same concerns that the Representative from Upcountry Maui expressed. I'm also concerned about the two counties that have already banned the plastic bags. What's going to happen with that? Because one of the things that, I know at least on Maui the selling points was to ban the plastic bags and there was going to be an alternative. There was going to be paper bags. Now we're potentially going to go back to them and say, 'Okay, you can have paper bags, but now you're going to have to pay 10 cents, or 12 cents, or whatever for it. So I think that's going to be a hard pill to swallow in our communities. Thank you."

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

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

"Thank you, Mr. Speaker. I rise in support of Senate Bill 1363. Thank you. Mr. Speaker, the support behind a 10 cent fee on a single-use checkout bag was amazing. Both the environmental community and the large grocery store industry have backed this bill.

"Mr. Speaker, according to a March 8th article in the *Honolulu Star-Advertiser* the people on Oahu alone use an estimated 300 million bags or more, annually. This is an unsustainable practice that will spoil our natural resources for generations to come. Some say that this isn't the time. I don't know when the time is ever to make the right decision.

"Mr. Speaker, the intent of this bill is not to simply collect fees from our citizens. The intent of this bill is to provide the incentive for our citizens to utilize reusable bags that will not pollute our lands and our waters. In cities, that has worked worldwide.

"Mr. Speaker, sometimes we need a little help when it comes to changing our behavior. It is time to help our citizens break the bad habit of using throwaway single-use bags and provide the incentive to utilize reusable bags. 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. 1363, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL PROTECTION," passed Third Reading by a vote of 45 ayes to 6 noes, with Representatives Awana, Cullen, Har, Johanson, Souki and Yamane voting no.

At 2:54 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1073, SD 2, HD 2
S.B. No. 1347, SD 1, HD 2
S.B. No. 1270, SD 2, HD 1
S.B. No. 723, SD 1, HD 2
S.B. No. 772, SD 2, HD 2
S.B. No. 1363, SD 2, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1585) recommending that S.B. No. 318, 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. 318, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I'd like a ruling on a potential conflict. One of my law partners has been lobbying on this bill. Thank you," and the Chair ruled, "no conflict."

Representative Hanohano 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. 318, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO BUSINESS DEVELOPMENT IN HAWAII," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1586) recommending that S.B. No. 753, 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. 753, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HIGH TECHNOLOGY," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1587) recommending that S.B. No. 1154, SD 2, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the committee be adopted, and that S.B. No. 1154, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Hanohano 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 Hanohano's written remarks are as follows:

"Mr. Speaker, I rise in support with reservations. This bill relates to the historic preservation of the South Kona Wilderness Area on the Island of Hawai'i. This measure was not referred to the Committee on Hawaiian Affairs which is tasked to examine public lands and historic preservation."

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

"Thank you. Let me just quote to you from a testimony of Jim Case submitted to the Senate.

The area covered by this bill contains within it some of the best preserved remnants of Hawaiian history. For example, there is Holua Slide, which is quite well preserved. Probably the best example in all Hawaii. The old King's Highway courses through the entire area. The smooth stones are well preserved, and in many places the highway is still the best way to travel over the raw lava.

There are many foundations of ancient Hawaiian house sites, an ancient well still exits. The Hawaiian community existed at Honomalino Bay, Okoe Bay, Kapua Bay, and Manuka. The Reverend William Ellis circled the island of Hawaii in 1824 and wrote about these communities in his book about his trip on foot around the island. This bill would preserve one of the few remaining examples of ancient Hawaiian culture.

"I urge your support."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1154, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HISTORIC PRESERVATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1588) recommending that S.B. No. 883, SD 2, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the committee be adopted, and that S.B. No. 883, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I rise in strong support of this measure. Thank you. This measure is the companion to the House Bill No. 1 which I introduced this Session and both bills, House Bill No. 1 and Senate Bill No. 883 seek to designate a new, special design gold star family plate for children, parents, grandparents, spouses, and siblings of fallen service members.

"The gold star legacy is part of the traditions of our country which trace back to World War I when an Army Captain, Robert Queisser of the 5th Ohio Infantry created the flags to honor his two son serving on the front lines in 1917.

"The flags were quickly adopted by families with sons in the army. With President Wilson's support, the Council of National Defenses proposed permitting mothers who had lost children serving in the war to wear a gold star on the black armband while in mourning. The black armband was exchanged for a small flag and the gold star was outlined in a thin blue outline signifying that the service member had died in battle.

"What better way to honor the lives of all our fallen warriors so that they will never be forgotten. This Body has a remarkable record of supporting the Hawaii service members and their families. And as mentioned prior, in 2005 we created the Hawaii Medal of Honor.

"I'd like to share with you an excerpt from testimony submitted by one of the recipients of the Hawaii Medal this year. This is from United States Army Lieutenant Colonel retired Patrick B. Collins, a three time combat veteran and a gold star father. His son, United States Corporal Patrick Collins was inducted into the Hawaii Medal of Honor this past March and he wrote and I quote:

I've always stayed from personalized license plates designating myself as a combat veteran because that is a personal identification that didn't need to be made. However the opportunity to have a gold star plate provides me the chance to honor my son's sacrifice, and I appreciate the opportunity to do so. My son did not live long enough to ever own his own vehicle and having the ability to put a gold star plate on my vehicle representing his service presents a unique chance in my mind to honor my son's sacrifice and give him the opportunity of driving down a freeway.

"The very essence of our freedom, to live in a free society, is the direct result of the bravery by those whose heroic acts and deeds this license plate honors. While a medal or a license plate can't take away the pain of losing a loved one, it shows that Hawaii will never forget them. The single most important aspect of the adoption of Senate Bill 883 will be that this Body declares that the gold star license plate represents a life that has been lost, and it also reminds everyone that freedom is not free. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In support. I would just like the words of the previous speaker entered into the record as if they were my own. And I also would like to take this chance to publicly, to thank the Chair of Public Safety and Military Affairs for his very hard work on this measure, working with the City and County, the DMVs, and everybody else to make this a reality. Thank you."

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

Representative Ching rose in support of the measure and asked that the remarks of Representative Takai 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. 883, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL NUMBER PLATES," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1589) recommending that S.B. No. 244, 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. 244, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1591) recommending that S.B. No. 806, 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. 806, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TEACHERS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1593) recommending that S.B. No. 2, 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. 2, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC LAND," passed Third Reading by a vote of 51 ayes.

At 3:01 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 318, SD 2, HD 2
S.B. No. 753, SD 2, HD 2
S.B. No. 1154, SD 2, HD 1
S.B. No. 883, SD 2, HD 1
S.B. No. 244, HD 1
S.B. No. 806, SD 1, HD 2
S.B. No. 2, SD 2, HD 1

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1594) recommending that S.B. No. 573, 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. 573, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET," passed Third Reading by a vote of 50 ayes, with Representative Souki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1595) recommending that S.B. No. 333, SD 3, 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. 333, SD 3, HD 2, 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 measure which seeks to preserve Hawaii's unique architectural history. Heritage and historic preservation efforts are important especially as APEC nears. We know that places like Charleston; San Francisco; Athens, Greece; Rome, Italy; Paris, France, all hold the attraction over time. Come recession, or come a boom economy, these places, particularly Charleston in the United States, do very well in the tourism industry.

"I believe architecture is in fact the largest, most utilized, most recognizable form of art in all of our daily lives. You may see art on a wall, but everyone drives past certain avenues. We've witnessed countless opportunities to showcase the diversity of the monumental structure and aesthetically beautiful Hawaii and the truth is that the built environment is arguably as important as a natural environment to the tourist.

"My colleagues, this is an opportunity to rise and I'm thankful for this help of the history of Hawaii because together by passing this measure we protect the indispensible avenue for tourism. It's encouraging, this initiative, for the betterment of our State.

"The reason I support historic preservation, and again believe that it is deserving of significant recognition has to do with page 1 here. That we find that as we begin to compete economically in the Pacific Basin, we are beginning to realize that much of our strength lies in our own uniqueness. Those factors that provide us with a distinct advantage over our competitors and that is our heritage, and our architecture reflects that.

"There's a temple in my district, the Liliha Shingon Temple that as was explained by Lorraine Minatoishi Palumbo, an expert on Japanese temples, who will be coming out with a film and a book soon, that it's the unique blend. You will never find this kind of temple in Japan, and you will never find it on the mainland USA, because it's again, always the blend that Hawaii has that unique ability to blend. And so it is a unique piece of architecture throughout the world, according to Lorraine.

"And so once again I express my strong support for this measure, and my gratitude for this measure. And additional written comments. Thank you, Mr. Speaker."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support of SB 333. As a lead advocate for heritage and historic preservation efforts, I believe architecture is in fact the largest, most utilized, most recognizable form of

art in our daily lives. I have witnessed countless opportunities to showcase the diversity of the monumental, the structural and aesthetically beautiful Hawaii.

"The historic, cultural and natural resources of Hawai'i are a great legacy and irreplaceable treasures. Each of the sites is an important icon for Hawai'i residents and visitors, adding to the enjoyment, education, and understanding of Hawaii's history and inspiration for the future.

"Ultimately, this bill is an investment in Hawaii's economy and its future by preserving its past while instilling pride in residents and educating visitors in the present.

"This bill benefits Hawai'i's economy in the short-term by providing jobs. It also benefits Hawai'i's economy in the long term by making Hawai'i a better, more competitive destination for business, relaxation, and especially cultural enrichment. And it benefits Hawai'i overall by reinforcing cultural connections and preserving elements of the past that are a source of pride and identity for our people. 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. 333, SD 3, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HISTORIC PRESERVATION," passed Third Reading by a vote of 50 ayes, with Representative Souki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1596) recommending that S.B. No. 986, 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. 986, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO THE CRIMINAL JUSTICE SYSTEM," passed Third Reading by a vote of 50 ayes, with Representative Souki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1597) recommending that S.B. No. 1290, 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. 1290, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I'd like to request a ruling on a potential conflict. I am a homestead lessee. 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. 1290, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED," passed Third Reading by a vote of 50 ayes, with Representative Souki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1598) recommending that S.B. No. 1520, 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. 1520, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," passed Third Reading by a vote of 50 ayes, with Representative Souki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1599) recommending that S.B. No. 1269, 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. 1269, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

At 3:05 o'clock p.m. Representative Choy requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 3:14 o'clock p.m. with the Speaker presiding.

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1269, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE DEFINITION OF COMPENSATION FOR PURPOSES OF THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 50 ayes, with Representative Souki being excused.

At 3:15 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 573, SD 2, HD 2
S.B. No. 333, SD 3, HD 2
S.B. No. 986, SD 2, HD 3
S.B. No. 1290, SD 1, HD 2
S.B. No. 1520, SD 2, HD 3
S.B. No. 1269, SD 2, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1600) recommending that S.B. No. 1095, 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. 1095, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1601) recommending that S.B. No. 1055, 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. 1055, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1602) recommending that S.B. No. 1062, 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. 1062, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1603) recommending that S.B. No. 1061, 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. 1061, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1604) recommending that S.B. No. 1083, 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. 1083, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. With reservations and can I just make some brief comments, please. Mr. Speaker, as this Body knows, public employee unions generally have two year agreements, and yet this particular bill deals with the University of Hawaii Professional Assembly. And as this Body recalls, under the Lingle Administration the UHPA actually got an unprecedented six year contract.

"To the best of my recollection in the terms of that contract, in the first two years UHPA did not get any pay raises. Then in the subsequent years they would begin to take pay raises. It is my understanding now we're in the third year of that contract. So the fact of the matter is UHPA members are now getting a pay raise when all other public employee union members are taking pay cuts.

"So yes, the argument can be made that this particular union had great negotiators on their behalf and yes, kudos to them. But the fact of the matter again is this. Everybody is taking pay cuts and the University of Hawaii Professional Assembly is not.

"One further comment. When this bill came up, I asked the Deputy Director of Finance if he knew what the numbers were because the contract was set. Where are they? They should be in here. We should be able to finish this particular bill. We should know the numbers. And they were not able to provide them. So for those reasons, I stand with reservations. Thank you, Mr. Speaker."

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

"Mr. Speaker, with reservations. I'd like the powerful words of the previous speaker entered in the record as if they were my own."

Representative Ward rose and stated:

"Mr. Speaker, the last speaker brought to mind a question of the most favored nation. If in effect it's such a darling agreement, does that mean it's going to go around the loop with all the other unions? And I'm not sure the previous speaker would answer that question. But if anybody knows it, I certainly will put it on the Floor."

The Chair addressed Representative Ward, stating:

"At this time, I believe none of us know what the negotiations are like."

Representative Ward: "Most favored nation is a big dollars sign. Thank you."

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

"Mr. Speaker, I just wanted to reveal a potential conflict. I do have a family member that I believe is in the University of Hawaii System. Thank you," and the Chair ruled, "no conflict."

Representative Awana rose in support of the measure with reservations and asked that the remarks of Representative Har 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. 1083, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed Third Reading by a vote of 51 ayes.

At 3:19 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1095, SD 1, HD 1
S.B. No. 1055, SD 1, HD 1
S.B. No. 1062, SD 1, HD 1
S.B. No. 1061, SD 1, HD 1
S.B. No. 1083, SD 1, HD 1

THIRD READING

S.B. No. 1260, SD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, S.B. No. 1260, SD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC FINANCE," passed Third Reading by a vote of 51 ayes.

S.B. No. 1271, HD 1:

Representative B. Oshiro moved that S.B. No. 1271, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, with reservations and brief comments. My only qualm with this particular bill is, if Members look on page 3, in the particular criteria that notes how the notice should be given. Because there is an 'or' in here, and I think it gives a little too wide of a latitude and discretion to the Executive Branch and I worry that it may reduce transparency ultimately. So for those reasons, I'll be voting with reservations on this measure. Thank you."

The motion was put to vote by the Chair and carried, and S.B. No. 1271, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC NOTICES FOR THE EXPENDITURE CEILING AND THE AWARDING OF GRANTS," passed Third Reading by a vote of 51 ayes.

S.B. No. 1285, SD 2, HD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, S.B. No. 1285, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL INVESTMENTS," passed Third Reading by a vote of 51 ayes.

S.B. No. 1288, SD 1, HD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, S.B. No. 1288, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMERGENCY AND BUDGET RESERVE FUND," passed Third Reading by a vote of 51 ayes.

S.B. No. 199, SD 2, HD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, S.B. No. 199, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Belatti and Takai voting no.

S.B. No. 570, SD 2, HD 1:

Representative B. Oshiro moved that S.B. No. 570, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I am in opposition to this measure. One of the things that this bill does is it imposes a tax on pensions and pension income. I realize that the Senate took the pensions out of their bill that they were dealing with, but it lives on in this measure. Earlier I was rejoicing because they had taken it out. But then it dawns on me that it is still alive as an issue.

"Our senior citizens are very apprehensive, and all those that are planning their futures are nervous. Military retirees are very wary. This bill will disrupt their financial planning and pull the rug out from under their lives. The Legislature had seen the language of this measure in many forms since Governor Abercrombie first introduced his plan to tax pensions in his State of the State Address. When this Body first entertained the idea of taxing pensions, it was suggested that we tax individuals with an adjusted gross income as low as $37,500. At the time, I called the idea almost cruel.

"Today the measure before us taxes pensions at the threshold of $100,000 and higher to make the bill more palatable to retirees. However my concerns remain the same and they're best stated in the testimony provided by Mrs. Barbara Kim Stanton of AARP, the American Association of Retired Persons. She said that this bill could be a foot in the door that will lead to taxing pensions of seniors at moderate and lower income levels sooner rather than later. If we pass this measure today, we will have our foot in the door to start taxing the pensions of all our seniors. We may end up taxing pensions at $10,000 or $5,000 or maybe at no threshold at all. If we return to the Governor's original proposal of $37,500, it will be harmful to our low income seniors.

"The House Finance Committee has even considered a proposal to tax a minimum amount of each pension to avoid an unattractive feature of this bill, the income trigger. In other words, in this bill, those who make $99,999 are safe from pension taxation. But should they make one dollar more, their pensions are taxed. The person making $100,000 will realize less income after taxes, then the person making one dollar less.

"Mr. Speaker, my point is that the fluidity of this measure is disconcerting. As I said before, seniors are quaking in their boots. I understand that the pension bill we sent to the Senate was modified to tax pensions of $100,000, not adjusted gross incomes of $100,000 which is our version. And then it was stripped. Very few people have such large pensions as $100,000, but with the income and pension figures wildly fluctuating, seniors don't know what to expect. They are at the mercy of the Conference Committee, and we all know that those who've voted no on these bills are not allowed to serve on Conference. So since I've been voting no against a tax on pensions I will not able to weigh in on this measure. Only those who have voted yes on this bill will be selected.

"Will the income trigger go up or down? Will the $100,000 go up or down? Will only $100,000-plus pensions be taxed? Will the first X amount of every pension get taxed? Where this elevator stops, nobody knows. This situation gives retirees absolutely no assurance of safety. For this reason and for many others, I ask the Conference Committee to totally strip the pension tax out of this bill and any other bill. Join me in voting no on this and other measures. Thank you."

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

"Thank you. Mr. Speaker. I rise to speak against the bill also. Mr. Speaker, there's also a very serious constitutional defect in the bill. Whether or not the constitutional challenge would be upheld no one could say. I can remember arguing the SuperFerry issue and going back and forth and being assured by the Majority Party that the SuperFerry legislation wasn't special legislation, and we all know how that turned out.

"So on this, the Department of the Attorney General has stated that Part I of the proposed House Draft 1 could be the subject of a constitutional legal attack. Should this bill become law in this proposed form it could be challenged and the outcome would not be certain. It could take years to litigate the issue through the Hawaii Court System and subject the State to refund lawsuits if the bill is found unconstitutional. At the least it should be made prospective, but the better way to deal with this is to just strip the pension tax out of the bill. And given our track record on other measures, no one would feel secure that their pension would be safe because I'm sure that future Legislatures would dip down further, further, and further until every pension is taxed by this Body. Thank you."

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

"Thank you very much, Mr. Speaker. With serious reservations. I am opposed to the Part II the pension portion. However this bill as noted, has several other parts that are very important for us and our overall financial plan. So because of that case, I will be going with reservations because these other parts of the bill that need to move forward to Conference. However, I am opposed to Part II. Thank you."

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

"Thank you, Mr. Speaker. I also rise in opposition of this measure. And with all that's been said, I won't repeat it, but I will state my position, that it's a promise made, a promise kept. People have lived their lives already, most of the majority of their lives, and made decisions based on expectation. Thank you."

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

"Mr. Speaker, I rise also in opposition. In addition to promises made and promises broken, in addition to the legal arguments, in addition to the slippery slope, there's one more argument, Mr. Speaker, which I would proffer to enter into the Journal and that's the military argument.

"Mr. Speaker, the military will be hit big time by this bill. There are 33 states that deal specifically with military pensions. I think people have gotten misinformation about taxes on military pensions. But they put it in a special category. We of course are putting into a special category called, we are going to tax your pension. Let's look at the numbers though, Mr. Speaker.

"Do we really know what the military's doing for the State of Hawaii. Let's take for example our biggest industry, tourism. If you add up military spending, defense contractor spending, and federal spending in 2008, it was $13.5 billion. That same year, tourism was $12.8 billion. It's really our biggest industry.

"If we look at some of the other additions that they've added to our State economy, $4,740 per person per capita is the third ranking in the United States behind Virginia and Alaska in terms of spending. We're the 'apple of the eye' of the DOD. And according to the 2000 US Census, Hawaii topped all states for volunteer military personnel. 4.5% of our population. These are the people we're going to repay for their patriotism when they come back. Every major defense contractor has local staff and spending over $2 billion annually since 2002. Pearl Harbor is literally the largest industrial employer in Hawaii. The Pacific Missile Range is the largest multi-environment military range in the world and these are our local residents who work at those places, and who are going to retire and whose pensions we are going to tax. And let us not forget the Coast Guard. They have in 2006 conducted more than 1,200 search and rescue missions, saving 409 lives, $3.8 million in property being secured. Again, these are local residents.

"The bottom line, Mr. Speaker, you take away the military. Take away the military spending and we become a third world country. Look at the numbers. Do the math. One third of our economy is tourism. One third is federal spending. And one third is other. If you take away that one third, we become a mediocre visitor destination. Without the military we are not who we think that we are.

"The bottom line is this. Let's remember in a town hall meeting that Representative Marumoto had a few weeks ago. There were about a hundred people in a room and I asked, 'How many of you have served in the military?' Probably about 10% raised their hand. I said, 'Was that an important decision for you to retire in Hawaii?' Another 100% of those 10% raised their hands.

"Mr. Speaker, we have been a haven. We have benefitted militarily by those who are on active duty. Those who are off duty, and to do this pension for the military is to take what otherwise has been spoken by my colleagues about the *kupuna*, about the legal arguments, about a pension tax, that heretofore has not been considered in these more difficult times. It's something that's not needed. Our colleagues in the Senate have just kicked it out of the bill. Mr. Speaker, the best thing to do is that we also do the same. Throw it under the bus. Get rid of it. Thank you."

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

"Mr. Speaker, I rise in support of this measure. Mr. Speaker, there are several key parts in this bill and I'm going to cover several that have not been touched upon, but Members need to understand are in this current draft.

"In Part IV of the bill there is a temporary cap on the amount of itemized deductions that may be claimed by a tax payer at $50,000. $50,000 of deductions is a lot of money, Mr. Speaker and I doubt that many of the Members in this Chamber or even those listening in have itemized deductions in that amount of $50,000. And that applies in the case of a joint return with an adjusted gross income of $200,000. It goes down to $37,500 in the case of a head of household with adjusted gross income of over $150,000, and then $25,000 for an individual with again, an adjusted gross income over $100,000. So that's in Part IV of the bill.

"It's important for Members to know, Mr. Speaker, that that particular element of this bill means $22.4 million for fiscal year '12 through fiscal year '15. That will weigh in and help us address the $1.3 billion shortfall we are facing over the two years, and the current shortfall that we all need to address. It will also impact approximately 22,700 returns or 3.8% of the tax payers. So that's Part IV of this measure regarding the cap on the itemized deductions. $22.4 million.

"Part V of the bill will delay the standard deduction and personal exemption that was increased under Act 60 two years ago in 2009. Also it makes the increases permanent. The revenue gain for those two components is $8.3 million per year for fiscal year '12. For fiscal year '13, a loss of $8.3 million. And fiscal year '14, $8.3 million thereafter. So in general, it's about a $30 million impact, or $22 million impact going out after fiscal year '12 on just those two components.

"A couple of points need to be made on the pension issue here. The revenue that the State will receive, about $17 million, is derived from approximately 4,000 tax filers or 0.7% of total resident returns. That's less than 1%, Mr. Speaker. It kicks off at a very high level for a couple having $200,000 or more in joint returns, or a head of household $150,000, or a single at $100,000, Mr. Speaker.

"It's a very modest amount, but it does a lot of good for the general public, so I hope that Members can see that. Understand the enormous importance of this measure. Not only as a matter of fairness and equity, but as a matter of balancing the budget and addressing this $1.3 billion shortfall and taking care of the needs of our school kids, the needs of our community hospitals, and those weakest and poorest among us. Thank you, Mr. Speaker."

Representative Ichiyama 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 Ichiyama's written remarks are as follows:

"Thank you, Mr. Speaker. I rise with strong reservations. I understand that this measure is a part of the Governor's package in addressing our shortfall of $1.2 billion over the next two years, but I also feel it is an additional burden on our senior population. The House proposal did raise the threshold levels, for example from $75,000 to $200,000 AGI filing jointly, but I am still concerned that these amounts are too low.

"One of the fundamental principles of taxation policy is the balanced treatment of different types of income. I acknowledge the need to include pension income in some form of tax scheme as a matter of evenhandedness, as other types of retirement income like 401(k)s are currently taxed. I would suggest, however, that in these difficult economic times we consider raising the thresholds so that fewer families will be impacted.

"I am also concerned about the elimination of the deduction for State taxes paid for taxpayers with income above specified thresholds. I would suggest that these threshold levels could be raised higher so that fewer families will be affected. In these difficult economic times, taking away this deduction will make it even harder for our local families to make ends meet. Thank you for the opportunity to speak with strong reservations."

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

"Mr. Speaker, in support. And it's reluctant support because you never want to be in the position of raising taxes on anyone. As an elected person, it's not something that they ever want to do. But it does seem to me that the pension question is a lot more murky than some would have us believe. Primarily because many kinds of retirement income are already taxed. Social Security is already taxed by the federal government for example.

"But it's done in a way that if you don't make a lot of money, you don't get taxed. And that's one reason why I believe in a progressive taxation system is those at the bottom end of the economic scale pay little or nothing. And as long as we craft the pension parts of this bill to make it consistent with the way that we tax other retirement income, I think it's unfortunate, but a fair way to do it, especially when you have people who work in the private sector who get 401ks or IRAs that I believe are both taxed already under State law. There is a fairness issue here about how we tax retirement income. Thank you."

Representative Har 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.)

Representative M. Lee rose in support of the measure and asked that the remarks of Representatives M. Oshiro and Rhoads be entered into the Journal as her own, and 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 which taxes pension incomes above $100,000 for a single filer. Mr. Speaker, we have heard a lot of inflammatory conversation about this measure, but in reality it is a measure that would affect only 1 to 3% of the population and give back $17 million in revenue.

"It is true that persons who have IRA's, 401K's and other retirement vehicles are taxed, so in many ways this bill is about fairness. Both military and government pensions at this high level should be taxed.

"This bill has a way to go and needs some adjustments and clarifications, yet it is something that is done by a great majority of the states. The opponents should consider that it is often pensioners who need and use such services as Kupuna Care, and who will eventually enter the Medicaid benefit for long-term care.

"The Governor has said everyone needs to help. High-level pensioners are among those who should be asked to help and many are willing to do just that."

The motion was put to vote by the Chair and carried, and S.B. No. 570, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 28 ayes to 23 noes, with Representatives Belatti, Brower, Carroll, Ching, Cullen, Fontaine, Hanohano, Hashem, Johanson, Keith-Agaran, C. Lee, Luke, Marumoto, Morikawa, Nakashima, Nishimoto, Pine, Riviere, Saiki, Takai, Thielen, Ward and Wooley voting no.

At 3:38 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1260, SD 1
S.B. No. 1271, HD 1
S.B. No. 1285, SD 2, HD 1
S.B. No. 1288, SD 1, HD 1
S.B. No. 199, SD 2, HD 1
S.B. No. 570, SD 2, HD 1

S.B. No. 756, SD 2, HD 1:

Representative B. Oshiro moved that S.B. No. 756, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Yes, Mr. Speaker. I rise in opposition to this measure. What this does is basically tax DirecTV and Dish Network to try to level the playing field with Time Warner Cable. It's trying to do that and trying to compare apples with apples when actually, we're comparing apples to oranges.

"Time Warner has to pay the PUC regulation fees because their cable crosses roadways and streets and public areas whereas the satellite technology is able to deliver directly into the homes of the consumers without having to use wiring or land based systems other than the satellite dish mounted on a person's home.

"So I don't think it's fair because one industry utilizes one sort of technology, that we are singling out a specific industry and trying to level the playing field from the government's perspective where we should allow free competition to occur and allow these companies to continue to provide services and to be competitive with Time Warner. Thank you."

The motion was put to vote by the Chair and carried, and S.B. No. 756, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 47 ayes to 4 noes, with Representatives Fontaine, Pine, Thielen and Ward voting no.

S.B. No. 831, SD 2, HD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, S.B. No. 831, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 51 ayes.

S.B. No. 1186, SD 2, HD 1:

Representative B. Oshiro moved that S.B. No. 1186, SD 2, 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 Morikawa rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

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

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

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

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

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

Representative Fontaine 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. 1186, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE TRANSIENT ACCOMMODATIONS TAX," passed Third Reading by a vote of 45 ayes to 6 noes, with Representatives Awana, Belatti, Brower, Marumoto, Pine and Ward voting no.

S.B. No. 1356, SD 1, HD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, S.B. No. 1356, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 51 ayes.

S.B. No. 120, SD 1, HD 1:

Representative B. Oshiro moved that S.B. No. 120, 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. I have reservations because of the taking of money from the Land Conservation Fund and the Tobacco Settlement Fund. Thank you."

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

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

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

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

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

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

"Thank you very much, Mr. Speaker. With reservations on a couple of items on this bill. And I understand why we need the funds. We need to balance the budget. But I am concerned about some of the transfers of funds. Some of them include the School Food Service Special Fund of $3 million, and the Mental Health and Substance Abuse Special Fund of $2 million, and the Neural trauma funds that we provided some legislation for in case someone has some accident.

"So I'm concerned with those items, and if you can find the wisdom and wherewithal to resolve that and replace those fund transfers, I would be very happy. Thank you, very much."

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

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

Representative Hanohano 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. 120, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE FUNDS," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Takai voting no.

At 3:44 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 756, SD 2, HD 1
S.B. No. 831, SD 2, HD 1
S.B. No. 1186, SD 2, HD 1
S.B. No. 1356, SD 1, HD 1
S.B. No. 120, SD 1, HD 1

At 3:44 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 3:45 o'clock p.m. with Vice Speaker Manahan presiding.

S.B. No. 754, SD 1, HD 1:

Representative B. Oshiro moved that S.B. No. 754, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

Representative Johanson's written remarks are as follows:

"Mr. Speaker, I rise in opposition to SB 754. I recognize our State's current fiscal situation and believe it is our duty as a legislative body to make critical decisions to meet our constitutional obligations to balance the budget. I am deeply concerned that this measure will very negatively impact the availability of local jobs for our local workers. This bill increases the cost of doing business in Hawaii and removes necessary tax exemptions that the construction and building industries need in order to survive. By removing these tax exemptions in the short-term to generate revenue to balance one fiscal year's budget, we may be delaying our State's economy recovery and creating larger economic and fiscal problems for the State in the future."

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

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

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

"Yes, Mr. Speaker, with reservations. Again a caveat, It's no secret that I would have preferred in the excise tax, however it's the will of the House that we don't do it. So we have this temporary suspension of excise taxes. The concerns I have is that how some of these may affect the labor market, the housing costs, especially the exemption on subcontractors. And the exemption on airlines may cost us jobs.

"Years back when I was the Speaker, back then we provided some assistance to Continental Airlines so they would come in and do all their repairs here in Hawaii, in Honolulu. And for a number of years, that's what they have been doing. This temporary exemption for the airlines would injure that capability that they have now. In fact, there have been some discussions that they'll probably or they might move back to the mainland. That's Continental Airlines.

"Being a Neighbor Islander, it also will affect Hawaiian Airlines and other airlines that do business between the interisland routes. It's expected to affect Hawaiian Airlines by $25 million. Now how that would affect the airfares, I don't know. It's already high, and probably it's going to be passed on to the consumer at some point and time.

"So there are other concerns I have with this bill. Again I applaud the Finance Committee for finding the money and the wherewithal so that we can balance the budget. But I only wish that we had looked at it on a broader scale and not on this nitpicking that we did this past Session. Thank you, very much."

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

"Mr. Speaker, I'd like to request a ruling on a potential conflict. I have contractors in the family. Thank you," and the Chair ruled, "no conflict."

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

"Mr. Speaker, I rise to speak against the bill Thank you. And Mr. Speaker, I have to say I oppose the bill for many of the reasons enunciated by Speaker Emeritus. He has a great deal of knowledge and experience in this area. I think the bill can be more detrimental to our recovery than it would be to help us put a little bit of money into the budget. Thank you."

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

"Mr. Speaker, I have reservations on this measure and I think that I have a little different stance than Speaker Emeritus. He had said he prefers an excise tax increase rather than this bill. Well I think this bill is a little more preferable than an increase in the excise tax which I think would be very harmful. I term this as, 'a lesser of the evils.' I am voting for this measure because I feel we have to make up we have to pass a balanced budget.

"But I want to point out the fact that subleases will be taxed at the four percent rate, and in Honolulu that is four and a half percent. And this affects all house rent, all retail stores that lease and sublease, and sub-sublease. All offices that do the same. There are a whole lot of people out there who don't know that this is coming down the pike, and their rents are going to be a lot more expensive every single month. So I vote for this with great deal of trepidation with reservations. Thank you."

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

"Yes, Mr. Speaker, in opposition. I did want to support this bill originally because I do believe that it's time that we look at our tax structure and look at those exemptions that perhaps are no longer needed for the time. And I do believe that many exemptions should be eliminated and we did include that in the House Minority Budget.

"Unfortunately we have to vote on the bill that's before us, and it has been mentioned that some of the double taxation that will occur especially in subcontractor area. So it's my hope as we go through this in the final version in Conference Committee that we can maybe somehow be able to vote on these different measures separately."

Representative Ching rose in opposition to the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition of SB 754. It should be remembered that many of the exemptions exist because if the general excise or use tax were imposed on these entities or transactions, it would impose an undue burden or cause businesses to structure transactions in an inefficient manner. There are those exemptions that exist because to tax the transaction would be a violation of superior law or maybe deemed unconstitutional.

"Other deductions, exclusions and exemptions exist because they help to reduce the pyramiding effect of the general excise tax. It should be remembered that any imposition of tax will not only result in the increase in the cost of doing business in Hawaii, but may create inequitable taxing situations that were addressed by the specific general excise tax exemption. Thank you."

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

"Thank you, Mr. Speaker. In support. Again, this is part of our plan to address the $1.3 billion shortfall. While it may seem that we are picking on certain industries or people, I think it is the exact opposite. We are making sure that those who do not pay, pay like everybody else. Thank you."

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

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

"Mr. Speaker, may I have a ruling on a potential conflict? I am an owner of a small business where I'm a sublessee in Kalihi. And I'm also an officer of another business in Mapunapuna, which is Tokyo Bento. I am an officer and not the President who operates the business. Just an officer," and the Chair ruled, "no conflict."

Representative Say continued to speak in support of the measure, stating:

"I'm willing to sacrifice the repeal of this particular exemption for two years. Thank you, very much."

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

"Mr. Speaker, I rise in opposition. Mr. Speaker, in the Hippocratic Oath that I've been referring to today, you do no harm to families. You don't increase the cost of living as we've already done today. Driving is more expensive. Being a senior is more expensive now.

"Second part of do no harm to our jobs. In this bill we've got subcontractors, renovators, airline tickets.

"And most importantly, the third part of the Hippocratic Oath is do no harm to the economy. Mr. Speaker, this is robust and as the gentleman said earlier, that this is going to help us close our budget gap. But you can close a budget gap by blowing a hole in the economy by stalling it.

"And as I've spoke previously on this Floor, what does stalling the economy look like? Let us all rewind to September 2008, an abrupt stoppage of investment. Abrupt flow of goods and services. And those who have the money, holding on to it because they are so afraid that nothing out there is secure. So, Mr. Speaker, what messages we're sending here today is going to stall the economy. Those people who should be hiring more people will hold on to that investment capital because we taxed them all the more and made it all more certain regarding their future. And then we go into a tailspin.

"Now, how can I say this with such confidence? If we go to the Hawaii State Budget Online, www.hawaiistatebudgetonline it's all the choices that everybody in this Chamber has to look at what the Governor proposed, what the House proposed, what the Senate is proposing, we're proposing. These taxes are not necessary in this bill. Look at the data, look at the numbers, and let's not do harm to our family, our jobs, and particularly stalling our economy, which is already sputtering. Thank you, Mr. Speaker."

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

"Mr. Speaker, in support. Unfortunately, it seems to me like this is very much a zero sum game, because if we don't raise taxes and preserve the State programs and jobs that the tax increases support, that also hurts the economy. I think the mistake in the argument of the previous speaker is that only private sector jobs, only private sector investment are worth anything. And that's simply not true.

"Public sector jobs. Public employees spend their money just like everybody else. Investments we make in infrastructure at the State level are very important to the economy functioning well, and there's no data or any indication that somehow government economic activity is any less effective at propelling an economy forward, if you have to choose one or the other, than not raising taxes.

"So it is kind of a Hobson's Choice because I think both will have a negative effect on somebody, but you know that's what they pay us the big bucks to do. It's to make Hobson's Choices. Thank you."

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

"In support and written comment. But I'd also like to say that I also ascribe to the philosophy of first do no harm. And I think by voting on some of the measures we did today, we assure that some of the most vulnerable people will not be harmed. Thank you, very much."

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

"Mr. Speaker, I rise in favor of this measure which temporarily suspends the exemption from the general excise tax from certain persons and corporations. The exemptions would be suspended for 2 years at 4%. This is an essential element of the House Financial Plan, and is a matter of fairness as some entities have enjoyed this exemption for many years.

"During this period of financial crisis, everyone needs to help. Entities such as these would be helping the state to recover from the deficit, and also be a factor in avoiding an increase in the GET. I urge the Members' support."

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

"Mr. Speaker, I'd just like to read this one sentence: 'The code is also patently unfair as many of the deductions and preferences in the system which serve to narrow the tax base are mainly used by a relatively small class of mostly higher income individuals.' This is for the feds. 'Washington should not be in the business of picking winners and losers.'

"This particular statement in the pro-growth tax reform of the Path to Prosperity from the http://www.gop.gov/budget embodies what I see in this particular bill. What we're doing here is we're restoring the tax base. We're taking special interest out, and we're representing the ordinary people. What we're doing here is the first step to a pro-growth tax reform. That's what I feel. So I stand in strong support of this particular measure as the first step. Thank you, Mr. Speaker."

Representative Pine rose to respond, stating:

"Just in rebuttal, Mr. Speaker. As I mentioned earlier, I do believe we need to look at our tax structure and make it fair, but no other state in the nation has a general excise tax. And as the previous speaker knows very well, it's very different when we talk about the federal government and the Path to Prosperity that was presented by the Republicans in the US Congress who believe that all these tax credits should be eliminated. No one should have preferential treatment over the other.

"But unfortunately with our very unique tax structure, the general excise tax has the ability of taxing, and then taxing again, and then taxing again with every different part of business that works together. And so it's estimated in some cases the general excise tax can make a product cost between 18% and 20% more than it really should. And so while I agree with a lot of the statements of the previous speaker, and I do agree with a lot of the eliminations of tax deductions in this bill, we really should not compare our tax structure to the federal or any other state."

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

"I may have a potential conflict, Mr. Speaker. I'm a lessee of residential properties," and the Chair ruled, "no conflict."

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

"And I'm in support of this bill. Thank you."

Representative Souki rose to respond, stating:

"Yes, Mr. Speaker. My second time. And again, I'm not opposed to what has happened. I understand. I would prefer to have again a broader tax. However Members here must understand this. In the past two or three years we've made many draconian cuts and I believe over 200 positions or more have been cut in these past few years.

"This year in trying to resolve the budget with the Senate, we may face another major cut into the 'bone and marrow' of the State departments. So what will that mean to the State and to the community as the quality of life deteriorates when we don't have enough staff to take care of the dengue fever mosquito problem? We don't have enough public health nurses to go into the community. Our classes are increasing in size because we don't have enough money, so every year the class size increases. The University continues to deteriorate, their facilities, and not having enough classes.

"All this is happening before our eyes, and what we're talking about is not raising taxes. Watch out for the money. Think of what we've done in the past, and what we going to be doing before this Session is over. We're going to be further lowering the quality and standard of life for the people in the State of Hawaii. Those who receive mental health services, Medicaid services, Head Start services. All of this is all going to be hurt and we are doing nothing about it. So I ask you to think about this. Thank you, very much."

Representative Ward rose to respond, stating:

"Mr. Speaker. A brief rebuttal and a few additional comments. Mr. Speaker, lest we forget where the money comes from. The private sector hires 85% of the people. Government is not where it's at. We're the ones who live off of them. So when we say we're running short of money, it's because those in the private sector who produce the money are having a hard time vis-à-vis the regulation.

"I think the saying is best put this way. We do not have a deficit because we don't tax people enough as the Representative from Chinatown suggested. We're in trouble if we don't tax people. We have a deficit because we spend too much. Smart government, right-sizing government is what the people out there are asking as for. Cut spending and make sure that there's enough money to go around, Mr. Speaker. That's really where the issue is at.

"Let's not forget. We're not the third world where government hires 40, 50, 60% of the people, and runs all of the industries and distributes the sugar and like in Gaddafi's place. He gives gas at 7 cents a gallon. Government is not the center of American life. But in Hawaii, you would think that government is the beginning and the end of everything. Mr. Speaker, that's not true. It's deceptive.

"And let us not forget that the economy runs on liquidity. Liquidity means people spending money and keeping that pump primed, and keeping the small, the big, and everybody confident that if they spend they're going to have enough money for tomorrow. Right now we have scared the daylights out of those people who got the money to do investments, and without investment, there's no jobs. And the more that we tax and we send signals from this Floor, the more those people are going to hold on to their investment money and there's not going to be any jobs.

"So it's not, 'they're right, we're wrong,' or 'we're right and they're wrong.' We just got to see both sides of the equation that's why there's an adversarial two party system so we just don't hear one side, but you see both sides of it. Because what's prospered this nation is the private sector. We're not a great nation, we're not an exceptional people because of government. We're an exceptional nation because of the people who occupy this nation. The 'can do' spirit. The innovative. The creative. The ones who from poverty built the greatest and strongest nation in the world, which we may be slipping away because we're relying upon our government instead of ourselves.

"Mr. Speaker, there's going to be a Tea Party on Friday, and those people are going to talk out against some of the things that we're doing but they're talking about some of the fundamental values of what we were as Americans in the beginning. So let us not praise at the altar of taxation, but get down to the basics that people want jobs and government is not the solution to creating jobs. It's part of the process of being the referee of making sure the game played in the marketplace of ideas that the marketplace where there's actual sales.

Representative Riviere rose to yield his time, and the Chair "so ordered."

Representative Ward continued, stating:

"Have I gone over 5 minutes? Mr. Speaker, in conclusion, the genius of the American people is the American people and not the American government. It's our job. Our business is governance. We have to govern wisely with what resources we have. And we can't complain every time that there's not enough resources to tell our people to 'eat more cake.' Give us more taxes. If we want to go to the European model in which way we're already heading that's fine and dandy. But there's some of us in this State, some of us in this nation saying that's not the American way. That's not the American model. That's not who we are.

"And, Mr. Speaker, I think if I look at the people of Hawaii who they are, they're a world class people. We're the center of ethnic mix. We're the center of intelligence. We're the center of all the things that the world together puts together in one place. One beautiful place blessed by God. We can do better than this. We can do more than just tax the people. Let's use our heads and just stop living off of our good looks. I think that's what Hawaii has got to get out, through, and above. With that Mr. Speaker, I rest my case. Thank you."

Representative Rhoads rose to respond, stating:

"Mr. Speaker. In support still. Mr. Speaker, I studied communism when I was in graduate school, and I'm very aware of the fact that if you ignore the free market, strange things happen because that's exactly what the Soviets tried to do. They tried to ignore the market. You can't ignore the market. But the market will also take into account, and investment will just as much stop coming into our State if our roads have so many potholes in them that you can't drive down without shaking your teeth out. If dengue fever takes the place over because the Vector Control Division has been cut. If you can't eat at a restaurant because you're afraid you're going to get food poisoning. If you are injured in your elevator as you go to your hotel room because there are no elevator inspectors in this State.

"The government and the private sector can work together to make and achieve prosperity. But if you shortchange one or the other to the extent that they don't function, that's when you have problems. This whole idea that government is the problem is just baloney. Government is part of the solution. Government is why the private sector can function. If you have a government that teams with the private sector that understands economics, then things will progress quite well. But if you downplay the government's role, you're asking for trouble.

"All you have to do is go to a country where the government doesn't function and you'll see what I'm talking about. Look at Somalia, or Afghanistan, or many places in the world where the government just doesn't function and you'll see that the economy's not doing so well either. Thank you, very much."

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

"Thank you, Mr. Speaker. I wasn't really going to get up on this debate, but I think I will now. I wanted to reiterate, I rise in opposition mostly because of the subcontractors. I had a very good conversation with a subcontractor at a restaurant the other night, and he explained to me in detail why this was going to be so destructive. And as Speaker Emeritus mentioned, those points I believe in and I believe are valid.

"I don't mean to be pontificating in any way, but I really see the world sometimes, as a classroom. I was at my favorite restaurant last night because we got out late. It's open until ten, thank goodness. It's my favorite because it has fresh chicken and fresh vegetables. And as I was leaving, they waved goodbye. I got there about 9 o'clock and five waitresses were

leaving. My friend and I, and my daughter looked. God, did we get the timing wrong? No, no. It still closes at 10.

"What they were doing, Mr. Speaker, is they were flexible. They were adjusting, and they let those five waitresses go home early to be home with their children, hopefully. You know good moms. They're going to tuck in their kids, or spend time reading to them. So it's an efficient use of time. Because they had the flexibility to do so. So I feel that perhaps, I speak I don't know, but from this Caucus, the debate to me, I believe, yes that's why I ran for office, I do believe government is good, and it is a solution. But in the debate of free market ideas, we all know government can't be flexible.

"We know this from special funds. We know this from the budgeting process. I knew this when I was teaching at Maemae School. The whole section of funds. You can't touch. Sorry. Because it has regulation. So even though what I needed in my classroom was something outside of that fund, I can't use that money. They want me to continue to use the money for something I don't need it for.

"The difference between government and the private sector is that Chinese restaurant last night. The manager can say, 'Hey ladies. You want to go home? You can go home.' You can't do that that quickly. You can't adjust that quickly in government. And there is no accountability. At bad times, you can't let somebody who's not performing, go. And we know that, and there are nations who have said, 'What's wrong with you guys. You spend so much money. End of productivity.'

"The fact is that 70% of our surplus went to pay raises right?"

The Chair addressed Representative Ching, stating:

"Representative Ching, we're on the exemptions."

Representative Ching: "Correct. And I'm just responding and adding to the Minority Leader's conversation in a rebuttal to my good friend, the Representative from Chinatown that I believe in government too. But I believe that everyone brings something special to the table. And I believe that everyone belongs at the table. And I believe that if all of something goes to only one son, and one son starves, you really do diminish the family.

"That son is the private sector. We do want to bring in more prosperity. I do believe that not always they should be held to OSHA standards and everything. I'm not saying that there should be *carte blanche*. What I'm saying is that there should be that invitation to have prosperity. And the private sector needs some help. I think so. So when we think about government, it does do some things very well, but there are other things that it just doesn't have the flexibility to react quick enough. Thank you."

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

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

"Thank you, Mr. Speaker. Mr. Speaker, in support. One of the things that the Minority Leader said is that government doesn't pay taxes. Government employees pay taxes. And the cut back in services, I doubt that the people in Hawaii Kai notice it. I will tell you who notice it. The people I represent in Pahala, Naalehu, and South Point. Those are the people I represent. And those are the people who feel it and I'm going to make sure that they get a fair share if there's any chance that I can."

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

"Thank you, Mr. Speaker, can I get a ruling on a potential conflict. At my law firm I represent subcontractors," and the Chair ruled, "no conflict."

Representative Har called for the previous question stated:

"Mr. Speaker, on that note, may I call for the question, please. Thank you."

Representative Ward rose and stated:

"Mr. Speaker, a point of personal privilege."

The Chair addressed Representative Ward stating:

"You've already spoken twice."

Representative Ward: "I know, but I was not told that the people of Hawaii Kai do not know what's going on in the rest of this State, nor do they know that what it is like to live in other districts. That's a personal privilege."

Representative Herkes: "Point of order."

At 4:12 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 reconvene at 4:14 o'clock p.m.

Representative Pine rose in opposition to the measure and asked that the remarks of Representative Ward 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 S.B. No. 754, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 44 ayes to 7 noes, with Representatives Brower, Ching, Fontaine, Johanson, Pine, Thielen and Ward voting no.

S.B. No. 778, SD 1, HD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, S.B. No. 778, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 51 ayes.

S.B. No. 741, SD 1, HD 1:

Representative B. Oshiro moved that S.B. No. 741, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I think this is the last time I speak. I hope, anyway. I rise in opposition to this Senate Bill. Thank you, Mr. Speaker. That increase the liquor tax rate by 20%. And my main concern with this bill, besides the fact that it's bad timing with the tragedy in Japan and our tourism industry needing help.

"My main reason for supporting, well wanting to support Hawaii regional cuisine and the local restaurants that will be affected by this. Roy of Roy's Restaurant was one of our main founders of the Hawaii Regional Cuisine movement. He testified that this would be damaging. He would lose business. He would have to cut jobs, and potentially it would drive him and others in his industry out of business. We want to support those types of businesses, and to express sort of the relationship that so many things are interrelated in my mind.

"I don't think in terms of silos. I don't like silos. When you think of a silo, it's not too far away from being myopic, short sighted. So the thing is without Hawaii regional cuisine and restaurants, particularly Roy's and some of the others, Alan Wong's, etc. who's going to buy that Waimanalo greens? Who's going to buy the Maui Gold pineapple? Who's going to buy the ag products that one of our goals is to have sustainability and to promote our agriculture. This is not good for tourism, and it's not good for agriculture. We can't afford to lose these valuable businesses. And if we let Roy's close his door, well, we'll not only lose the restaurant, we lose the jobs, the tourists, and the venue to showcase local agriculture. The very things that makes our State unique.

"And with those wonderful opportunities like APEC around the corner, we want to encourage our local businesses. We want them to flourish. We want them to shine come November. Thank you."

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

"Mr. Speaker, may I have a ruling on a potential conflict? I'm an importer of Japanese wine," and the Chair ruled, "no conflict."

Representative Say continued in support of the measure, stating:

"So I will support the measure, and the 20% increase."

Representative Cullen 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. 741, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR," passed Third Reading by a vote of 37 ayes to 14 noes, with Representatives Brower, Ching, Fontaine, Hanohano, Johanson, Luke, Marumoto, Morikawa, Nishimoto, Pine, Takai, Thielen, Ward and Wooley voting no.

S.B. No. 1006, SD 1, HD 1:

Representative B. Oshiro moved that S.B. No. 1006, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Thielen rose in opposition to the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Thielen's written remarks are as follows:

"The Legislature should not establish regulatory standards for water quality. In 2009, the Hawaii State Legislature inappropriately waded into the administrative realm by establishing regulatory standards for water quality. This is a dangerous precedent and one that I oppose. I do not believe we should extend the sunset of Act 126. I believe this Body is not equipped to review and analyze conflicting scientific data.

"This legislation sets a dangerous precedent. If this action sets a precedent, we must remain vigilant that polluters do not use the Legislature as a vehicle to lower health standards through the political process."

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

"In opposition and written comments, and I'd like to use the words of the previous speaker's written comments as my own."

Representative Pine's written remarks are as follows:

"Mr. Speaker, I am opposed to S.B. 1006 which, like H.B. 266, really lowers our State's water quality standards. Coming from Ewa Beach, I find that unacceptable.

"Although this bill would change some of the State's water quality standards to those of the EPA, such a change constitutes for us a step backwards since our standards in Hawaii are actually higher than those of the EPA's. This is as it should be: Hawaii's water quality should be different from the mainland's because we in Hawaii consume more fish and sea food than any other state, and our S.B. 1006 will negatively affect this important source of food for us here.

"As the State was trying to change its water quality standards, the EPA said, 'Well, before we approve your standards we want to see some real data on fish and the fish consumption and how that relates to the water quality in the population.' So in my opinion the ultimate effect of S.B. 1006 is to give the City an easy out for not maintaining the standards we should have.

"And in 2009 the EPA fined the City for putting untreated sewer water into Ewa Beach waters. As someone who surfs, canoe paddles, and swims, I find it totally unacceptable that the City would not want to improve its water standards. A thorough reading of the Sierra Club's testimony shows why Hawaii should have higher water quality standards than the national standard. Therefore Mr. Speaker, please record my "NO" vote against S.B. 1006."

Representative Johanson rose and asked that the Clerk record a no vote 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 and asked that the Clerk record a no vote for her, and the Chair "so ordered."

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

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

"May I have a ruling on a potential conflict? At my law firm we represent the plaintiffs in some lawsuits against the City for water quality standards. Thank you," and the Chair ruled, "no conflict."

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

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

The motion was put to vote by the Chair and carried, and S.B. No. 1006, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WATER QUALITY STANDARDS," passed Third Reading by a vote of 46 ayes to 5 noes, with Representatives Ching, Hanohano, Pine, Thielen and Wooley voting no.

At 4:21 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 754, SD 1, HD 1
S.B. No. 778, SD 1, HD 1
S.B. No. 741, SD 1, HD 1
S.B. No. 1006, SD 1, HD 1

ANNOUNCEMENTS

Representative Ward: "Mr. Speaker. I have an announcement about an upcoming budget event. Today we tried to do our best to do no harm to families, jobs, and the economy. We passed over 165 bills. A good percentage of these make the cost of drinking, driving, pensioning, you name it, a little bit more expensive. So while the cost of living has gone up, we need some budget balancing logic.

"What we have, and this is an invitation to everybody, I have a flyer that's going to be passed around to everyone. There's a budget summit that the Minority Caucus is sponsoring. Not just to listen to us and our budget that's online, but we are flying in two experts, budget experts from the American Legislative Exchange Council. For those of you who know the NCSL, this is the equivalent of it on the mostly on the other side of the aisle. But it's where we will be talking about a budget toolkit which they have been bringing around the country.

"That is a budget summit next Wednesday on the 20th of April. That's at 10:00 a.m. in the Auditorium of the State Capitol. Mr. Speaker, I hope everybody will come, not because we want to make believers out of them, but we want to show the data and in more detail be able to stand up and defend a no GET Tax budget for this year. Thank you, Mr. Speaker."

LATE INTRODUCTIONS

The following late introduction was made to the Members of the House:

Representative Ichiyama introduced a volunteer in her office, Miss Jessica Serikawa, a 6th grade student at St. Andrews Priory. She was accompanied by her legislative staff, Ms. Cu Ri Lee.

ANNOUNCEMENTS

Representative Evans: "Thank you, Mr. Speaker. Pay inequity affects women. Pay inequity affects families. And pay inequity affects our economy. It affects everyone. Today, April 12th, is Equal Pay Day. This day symbolizes how far into 2011 women must work to earn what men earned in 2010. I put on my red shawl today because the color red is worn to show how women and minorities are in the red.

"The Equal Pay Day Act was signed in 1963 when a women earned 59 cents to every dollar earned by a man. Today that number is 77 cents to every dollar. Mr. Speaker, I'd like permission to insert written comments. And also I would like a few more words to close.

"We've made many small steps in the right direction, and it's taken a lot of individuals and a lot of women to stand up for this issue. There was a woman, Lilly Ledbetter and she stood up for herself.

"She stood up for the welfare of women, and the welfare of families. And the first bill President Obama signed into law, it was the Lilly Ledbetter Fair Pay Act. This was to recognize their pay. That Act amends the Civil Rights Act of 1964 so that a person can file an equal pay lawsuit even if that person discovers they been discriminated against years after the pay discrimination began. She stood up for the welfare of future generations. At the current half cent a year, the pay gap is closing. At that rate, women's pay won't be equal to men's until 2050. Mr. Speaker, that's too long. Thank you."

Representative Evans' written remarks are as follows:

"We are taking steps toward equal pay for equal work.

"The first bill President Obama signed into law was the Lilly Ledbetter Fair Pay Act. This Act is named for a woman who, after a 19-year career and nearing retirement, found she had been paid less than her male colleagues for the exact same work. She took her case all the way to the Supreme Court, who ruled in favor of her employer -- not because Lilly Ledbetter had not been discriminated against, but because her claims were filed more than 180 days after the discriminatory decisions relating to her pay were made. The Lilly Ledbetter Fair Pay Act amends the Civil Rights Act of 1964 so that a person can file an equal pay lawsuit even if that person discovers they've been discriminated against years after the pay discrimination began.

"And there's the Fair Pay Act of 2009, which is currently in Congress. This bill aims to prohibit wage discrimination by requiring employers to provide equal pay for work of equal value, whether or not the jobs are the same.

"But the steps we're taking are small.

"A woman's 77 cents to every dollar earned by a man translates to an average loss of $431,000 over a 40-year career. Census data shows women have earned 77 cents to every dollar since 2005, so the average loss is much higher.

"When a woman graduates from college, she should -- absent of discrimination – be on an equal playing field with her male counterparts who have also just graduated. However, a study done by the American Association of University Women found that one year after graduation, a woman earns 80 cents to every dollar earned by a man. That number continues to decrease over the next 10 years, so that ten years after college, a woman's earnings are 69 percent of a man's. This pay inequity follows a woman into her retirement years, reducing her Social Security benefits, pensions, and savings.

And this report found that even after "[c]ontrolling for hours, occupation, parenthood, and other factors normally associated with pay, college-educated women still earn less than their male peers earn. . . . **A large portion of the gender pay gap is not explained by women's choices or characteristics.**"

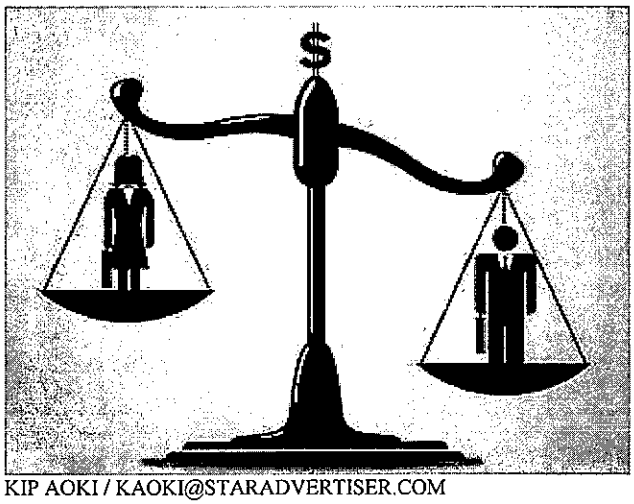
"This pay inequity not only impacts women – it impacts their families.

"At 77 cents to every dollar, this translates to an average loss of $10,000 each year. According to Aloha United Way's Family and Individual Self-Sufficiency study, $10,000 is ten months' worth of groceries for a family of four in Hawaii.

"And the pay gap is worse for women minorities. African American women earn 61 cents to every dollar, and Hispanic women earn 52."

Representative M. Lee: "Thank you, Mr. Speaker. Actually, I have two announcements to make. One is to expand upon what the Majority Floor Leader just said and to ask if I could insert in the Journal a copy of today's article in the *Star-Advertiser* written by the *Star-Advertiser's* staff called Gender Balancing Act. It states that full time working women in Hawaii are paid on the average $9,934 less per year than their male counterparts according to a study released today. The study was conducted by the National Partnership for Women and Families and the American Association of University Women. We're not the only state where this is the case, but it's significant. That's my first announcement.

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



KIP AOKI / KAOKI@STARADVERTISER.COM

Gender balancing act
Pay gaps that hurt women are costing isle families $1.7 billion yearly, a study finds

POSTED: 01:30 a.m. HST, Apr 12, 2011

Full-time working women in Hawaii are paid on average $9,934 less per year than their male counterparts, according to a study released yesterday.

The study conducted by the National Partnership for Women & Families and the American Association of University Women concluded that the gap costs Hawaii's families a total of more than $1.7 billion annually.

With 68 percent of Hawaii women now bringing in more than a quarter of their families' income and women heading more than 55,000 households, unequal wages are a major drag on the state economy, the groups said.

"This new data illustrate the very real harm unequal wages are doing to families and the state," said Debra Ness, president of the National Partnership for Women & Families. "It is long past time to close the gender- based wage gap. With women playing an increasingly important role as family breadwinners, there is no time to waste."

According to the report, if the gap between men's and women's wages were eliminated, each full-time working woman in Hawaii could afford mortgage and utility bills for four more months per year, rent for eight more months or more than three more years of family health insurance premiums.

"This research proves that the gender pay gap is not simply a numbers issue or a women's issue," said AAUW Executive Director Linda Hallman. "It's a bread- and-butter issue. It's an everyday issue for people who are trying to support their families and provide for their futures. No more lip service; it's time to act."

Hawaii is not the only state with a wage gap. Nationally, women working full time are paid an average of only 77 cents for every dollar paid to full- time working men, according to the study. The gap has been closing at a rate of less than half a cent per year since the passage of the 1963 Equal Pay Act. At that pace, working women won't earn the same amount as men until 2058. Ness said she was encouraged to see the reintroduction of the Paycheck Fairness Act in Congress. The legislation, which would establish stronger workplace protections for women, was passed by the U.S. House of Representatives in the last Congress but fell two votes short of moving forward in the Senate last year.

Honolulu Star-Advertiser

Representative M. Lee: "And secondly, I'd like to request a waiver of the 48 hour hearing notice requirement for the purpose of hearing two resolutions."

Representative M. Lee, for the Committee on Finance requested a waiver of the 48-hour advanced notice requirement for the purpose of hearing and decision making on the following measures on Wednesday, April 13th at 10:40 a.m. in Conference Room 308 for the following measures, and the Chair "so ordered."

HCR 166, requesting the Auditor to conduct a study regarding the transfer of non general funds to the general fund.

Decision making
HCR 204 and HR 176, requesting the Director of Public Safety to form a task force to initiate the planning and design process to develop a correctional treatment facility to house 1,000 to 1,200 inmates on undeveloped Hawaiian Home Lands on the Island of Hawaii, and or to consider the feasibility of a community based program at that location.

Representative Morikawa: "Mr. Speaker, I'd like to just express our thank you for the cookies from our District 14 Representative. It was a very welcomed snack on a very long day. Thank you."

Representative Fontaine: "Yes, Mr. Speaker. I'd like to express my thanks to Speaker Say for the lunch today. It was outstanding. Thank you very much for that."

Representative C. Lee: "Since you called on me. Thank you, Mr. Speaker. And thank you again for the Mexican lunch. I believe we're getting a few emails here and there about perhaps pursuing a Mexican Consulate. I don't know where I'm going with that. I'm just following a rich tradition of random announcements.

"But just to follow up on the other Representative Lee, from Mililani's comments, as well as the Majority Floor Leader.

"If you look at actually, interestingly at our own State government, which is where, first and foremost, we should be looking since we are the proprietors of that institution, you have about a $10,000 differential in median pay, which suggests a number of different things between men and women here. So perhaps the first place to go, if anyone is looking anywhere, is right in our own backyard. Thank you."

Representative Cabanilla: "Mr. Speaker, I just would like to thank my Vice Chair and the Committee on Housing, and all the Members for putting up with all those options and solutions, and resolutions that I have thought up in addressing homelessness. And I'm sure they have some qualms about it, but I thank them for their indulgence and their support. Thank you."

COMMITTEE REASSIGNMENTS

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

H.C.R. Nos.	Re-referred to:
24	Jointly to the Committee on Health and the Committee on Human Services
166	Committee on Finance

ADJOURNMENT

At 4:30 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 15, 2011. (Representative Chang was excused.)

HOUSE COMMUNICATIONS

House Communication dated April 12, 2011, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has disagreed to the amendments made by the Senate to the following measures:

H.B. No. 235, HD 2, SD 2
H.B. No. 1053, HD 1, SD 1