

TWENTY-FIFTH DAY

Friday, February 28, 1997

The House of Representatives of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1997, convened at 3:31 o'clock p.m., with the Speaker presiding.

The invocation was delivered by Sister Kathleen Marie Shields, Director, Diocesan of Religious Education, after which the Roll was called showing all members present with the exception of Representative Takamine, who was excused.

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

GOVERNOR'S MESSAGE

Gov. Msg. No. 159, transmitting copies of the annual report of the Agribusiness Development Corporation, in accordance with Act 264, Session Laws of Hawaii 1994, was received and announced by the Clerk and was placed on file.

DEPARTMENTAL COMMUNICATION

Dept. Com. No. 8 from Seiji F. Naya, Director, Department of Business, Economic Development and Tourism, transmitting copies of the preface and executive summary of "The Economic Impacts of Shipboard Gaming and Pari-Mutuel Horseracing in Hawaii", in response to SCR 282, SD 1, HD 2 (1996), was received and announced by the Clerk and was placed on file.

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 28 through 32) were received and announced by the Clerk and were placed on file:

Sen. Com. No. 28, transmitting Senate Bill No. 14, SD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMERCIAL DRIVERS' LICENSE," which passed Third Reading in the Senate on February 27, 1997.

Sen. Com. No. 29, transmitting Senate Bill No. 130, SD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES," which passed Third Reading in the Senate on February 27, 1997.

Sen. Com. No. 30, transmitting Senate Bill No. 1385, entitled: "A BILL FOR AN ACT RELATING TO STATE WAR MEMORIALS AND VETERANS' CEMETERIES," which passed Third Reading in the Senate on February 27, 1997.

Sen. Com. No. 31, transmitting Senate Bill No. 1624, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII STATE PUBLIC LIBRARY SYSTEM," which passed Third Reading in the Senate on February 27, 1997.

Sen. Com. No. 32, transmitting Senate Bill No. 1625, entitled: "A BILL FOR AN ACT RELATING TO HAWAII STATE PUBLIC LIBRARY SYSTEM," which passed Third Reading in the Senate on February 27, 1997.

On motion by Representative M. Oshiro, seconded by Representative Thielen and carried, S.B. Nos. 14, SD 1;

130, SD 1; 1385; 1624 and 1625 passed First Reading by title and further action was deferred. (Representatives Menor, Santiago, Takamine and Takumi were excused.)

ORDER OF THE DAY

STANDING COMMITTEE REPORTS

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 849) recommending that H.B. No. 1818, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 849 and H.B. No. 1818, HD 2, was deferred, and in accordance with Article III, Section 15, of the Constitution of the State of Hawaii, printed copies of H.B. No. 1818, HD 2, were made available to the members of the House.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 850) recommending that H.B. No. 248, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 850 on H.B. No. 248, HD 2, was deferred, and in accordance with Article III, Section 15, of the Constitution of the State of Hawaii, printed copies of H.B. No. 248, HD 2, were made available to the members of the House.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 851) recommending that H.B. No. 551, HD 2, as amended in HD 3, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 851 and H.B. No. 551, HD 3, was deferred, and in accordance with Article III, Section 15, of the Constitution of the State of Hawaii, printed copies of H.B. No. 551, HD 3, were made available to the members of the House.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 852) recommending that H.B. No. 585, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 852 and H.B. No. 585, HD 1, was deferred, and in accordance with Article III, Section 15, of the Constitution of the State of Hawaii, printed copies of H.B. No. 585, HD 1, were made available to the members of the House.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 853) recommending that H.B. No. 737, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 853 and H.B. No. 737, HD 1, was deferred, and in accordance with Article III, Section 15, of the Constitution of the State of Hawaii, printed copies of H.B. No. 737, HD 1, were made available to the members of the House.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 854) recommending that H.B. No. 1188, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 854 and H.B. No. 1188, HD 1, was deferred, and in accordance with Article III, Section 15, of the Constitution of the State of Hawaii, printed copies of H.B. No. 1188, HD 1, were made available to the members of the House.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 855) recommending that H.B. No. 1572, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 855 and H.B. No. 1572, HD 1, was deferred, and in accordance with Article III, Section 15, of the Constitution of the State of Hawaii, printed copies of H.B. No. 1572, HD 1, were made available to the members of the House.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 856) recommending that H.B. No. 1591, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 856 and H.B. No. 1591, HD 2, was deferred, and in accordance with Article III, Section 15, of the Constitution of the State of Hawaii, printed copies of H.B. No. 1591, HD 2, were made available to the members of the House.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 857) recommending that H.B. No. 1714, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 857 and H.B. No. 1714, HD 2, was deferred, and in accordance with Article III, Section 15, of the Constitution of the State of Hawaii, printed copies of H.B. No. 1714, HD 2, were made available to the members of the House.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 858) recommending that H.B. No. 1716, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 858 and H.B. No. 1716, HD 1, was deferred, and in accordance with Article III, Section 15, of the Constitution of the State of Hawaii, printed copies of H.B. No. 1716, HD 1, were made available to the members of the House.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 859) recommending that H.B. No. 1809, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 859 and H.B. No. 1809, HD 1, was deferred, and in accordance with Article III, Section 15, of the Constitution of the State of Hawaii, printed copies of H.B. No. 1809, HD 1, were made available to the members of the House.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 860) recommending that H.B. No. 1812, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 860 on H.B. No. 1812, HD 1, was deferred, and in accordance with Article III, Section 15, of the Constitution of the State of Hawaii, printed copies of H.B.

No. 1812, HD 1, were made available to the members of the House.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 861) recommending that H.B. No. 1824, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 861 and H.B. No. 1824, HD 2, was deferred, and in accordance with Article III, Section 15, of the Constitution of the State of Hawaii, printed copies of H.B. No. 1824, HD 2, were made available to the members of the House.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 862) recommending that H.B. No. 1852, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 862 and H.B. No. 1852, HD 2, was deferred, and in accordance with Article III, Section 15, of the Constitution of the State of Hawaii, printed copies of H.B. No. 1852, HD 2, were made available to the members of the House.

At 3:38 o'clock p.m., Representative Okamura asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 3:40 o'clock p.m.

Representatives Takamine and Yoshinaga, for the Committees on Water and Land Use and Energy and Environmental Protection, presented a joint report (Stand. Com. Rep. No. 915) recommending that H.B. No. 735, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, and notwithstanding the recommendation of the Committees, Stand. Com. Rep. No. 915 and H.B. No. 735, HD 1, were recommitted to the Committees on Water and Land Use and Energy and Environmental Protection. (Representatives Menor, Santiago, Takamine and Takumi were excused.)

Representative Yonamine, for the Committee on Labor and Public Employment, presented a report (Stand. Com. Rep. No. 863) recommending that H.B. No. 1360 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1360, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Yonamine, for the Committee on Labor and Public Employment, presented a report (Stand. Com. Rep. No. 864) recommending that H.B. No. 1623 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1623, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY APPEALS," passed Second Reading and was

placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Yonamine, for the Committee on Labor and Public Employment, presented a report (Stand. Com. Rep. No. 865) recommending that H.B. No. 1617, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1617, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SUGGESTION AWARDS," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Yonamine, for the Committee on Labor and Public Employment, presented a report (Stand. Com. Rep. No. 866) recommending that H.B. No. 1624, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1624, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BOILER AND ELEVATOR SAFETY LAW," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Yonamine, for the Committee on Labor and Public Employment, presented a report (Stand. Com. Rep. No. 867) recommending that H.B. No. 1616, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1616, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HUMAN RESOURCES MANAGEMENT IN STATE GOVERNMENT," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Yonamine, for the Committee on Labor and Public Employment, presented a report (Stand. Com. Rep. No. 868) recommending that H.B. No. 1618, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1618, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DUTIES OF THE DIRECTOR OF HUMAN RESOURCE DEVELOPMENT," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Hiraki, for the Committee on Transportation, presented a report (Stand. Com. Rep. No. 869) recommending that H.B. No. 1395 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1395, entitled: "A BILL FOR AN ACT RELATING TO STATEWIDE TRAFFIC CODE," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Hiraki, for the Committee on Transportation, presented a report (Stand. Com. Rep. No. 870) recommending that H.B. No. 37, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 37, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Hiraki, for the Committee on Transportation, presented a report (Stand. Com. Rep. No. 871) recommending that H.B. No. 293, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 293, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUPIL TRANSPORTATION," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representatives Tarnas and Case, for the Committees on Ocean Recreation and Marine Resources and Hawaiian Affairs, presented a joint report (Stand. Com. Rep. No. 872) recommending that H.B. No. 613, HD 1, as amended in HD 2, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the joint report of the Committees was adopted and H.B. No. 613, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MARINE RESOURCES," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 873) recommending that H.B. No. 98, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 98, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE TAXATION OF CAPITAL GAINS," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 874) recommending that H.B. No. 1644 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1644, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAX EXEMPTION OF CERTAIN SCIENTIFIC CONTRACTS WITH THE UNITED STATES," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 875) recommending that H.B. No. 1650, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1650, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INCOME TAX CREDITS," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 876) recommending that H.B. No. 1694 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1694, entitled: "A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAX EXEMPTION FOR EXPORTED SERVICES," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 877) recommending that H.B. No. 1876 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1876, entitled: "A BILL FOR AN ACT RELATING TO NOTARIZED SIGNATURES ON PROFESSIONAL AND VOCATIONAL LICENSE APPLICATIONS," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 878) recommending that H.B. No. 783, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 783, HD 1, entitled: "A BILL FOR AN ACT RELATING TO NEGOTIABLE INSTRUMENTS," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 879) recommending that H.B. No. 1873 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1873, entitled: "A BILL FOR AN ACT RELATING TO THE LICENSURE EXAMINATION REQUIREMENTS FOR PSYCHOLOGISTS," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 880) recommending that H.B. No. 1892 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1892, entitled: "A

BILL FOR AN ACT RELATING TO APPOINTMENT OF BOARD MEMBERS," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 881) recommending that H.B. No. 1874 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1874, entitled: "A BILL FOR AN ACT RELATING TO PRELICENSING INSPECTIONS," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 882) recommending that H.B. No. 1882 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1882, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INDUSTRY LICENSING," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 883) recommending that H.B. No. 1875 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1875, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION REQUIREMENTS FOR PROFESSIONAL AND VOCATIONAL LICENSING," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 884) recommending that H.B. No. 787 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 787, entitled: "A BILL FOR AN ACT RELATING TO DEPOSITS OF PUBLIC FUNDS," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 885) recommending that H.B. No. 1883 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1883, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INDUSTRY LICENSING," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 886) recommending that H.B. No. 1879 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1879, entitled: "A BILL FOR AN ACT RELATING TO MASSAGE THERAPY," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 887) recommending that H.B. No. 1877 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1877, entitled: "A BILL FOR AN ACT RELATING TO OPTOMETRY EXAMINATION REQUIREMENTS," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 888) recommending that H.B. No. 1880 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1880, entitled: "A BILL FOR AN ACT RELATING TO OPTOMETRY LICENSURE," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 889) recommending that H.B. No. 788 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 788, entitled: "A BILL FOR AN ACT RELATING TO SECURED TRANSACTIONS," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 890) recommending that H.B. No. 1898 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1898, entitled: "A BILL FOR AN ACT RELATING TO REGULATION OF PRIVATE DETECTIVES AND GUARDS," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 891) recommending that H.B. No. 773, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 773, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PEST CONTROL OPERATORS," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 892) recommending that H.B. No. 786 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 786, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM COMMERCIAL CODE," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 893) recommending that H.B. No. 345 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 345, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE RATE REGULATION," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 894) recommending that H.B. No. 1884 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1884, entitled: "A BILL FOR AN ACT RELATING TO REAL ESTATE BROKERS AND SALESPERSONS," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representatives Menor and Tom, for the Committees on Consumer Protection and Commerce and Judiciary, presented a joint report (Stand. Com. Rep. No. 895) recommending that H.B. No. 1862, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the joint report of the Committees was adopted and H.B. No. 1862, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE RETURN OF MERCHANDISE," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representatives Menor and Tom, for the Committees on Consumer Protection and Commerce and Judiciary, presented a joint report (Stand. Com. Rep. No. 896) recommending that H.B. No. 897 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the joint report of the Committee was adopted and H.B. No. 897, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUM PROPERTY REGIMES," passed

Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representatives Menor and Tom, for the Committees on Consumer Protection and Commerce and Judiciary, presented a joint report (Stand. Com. Rep. No. 897) recommending that H.B. No. 778 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the joint report of the Committees was adopted and H.B. No. 778, entitled: "A BILL FOR AN ACT RELATING TO PLANNED COMMUNITY ASSOCIATIONS," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representatives Menor and Tom, for the Committees on Consumer Protection and Commerce and Judiciary, presented a joint report (Stand. Com. Rep. No. 898) recommending that H.B. No. 2220 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the joint report of the Committees was adopted and H.B. No. 2220, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE FORECLOSURES," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representatives Menor and Tom, for the Committees on Consumer Protection and Commerce and Judiciary, presented a joint report (Stand. Com. Rep. No. 899) recommending that H.B. No. 65, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the joint report of the Committees was adopted and H.B. No. 65, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PAWNBROKERS," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representatives Menor and Tom, for the Committees on Consumer Protection and Commerce and Judiciary, presented a joint report (Stand. Com. Rep. No. 900) recommending that H.B. No. 2120, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the joint report of the Committees was adopted and H.B. No. 2120, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE RECORDING OF TRANSACTIONS," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representatives Menor and Tom, for the Committees on Consumer Protection and Commerce and Judiciary, presented a joint report (Stand. Com. Rep. No. 901) recommending that H.B. No. 582, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the joint report of the Committees was adopted and H.B. No. 582, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMBAT," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Yoshinaga, for the Committee on Energy and Environmental Protection, presented a report (Stand. Com. Rep. No. 902) recommending that H.B. No. 127, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 127, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PERIODIC BULLETIN OF THE OFFICE OF ENVIRONMENTAL QUALITY CONTROL," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representatives Yoshinaga and Tarnas, for the Committees on Energy and Environmental Protection and Ocean Recreation and Marine Resources, presented a joint report (Stand. Com. Rep. No. 903) recommending that H.B. No. 1696, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the joint report of the Committees was adopted and H.B. No. 1696, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Tom, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 904) recommending that H.B. No. 1385 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1385, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Tom, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 905) recommending that H.B. No. 432, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 432, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Tom, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 906) recommending that H.B. No. 1473 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1473, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Tom, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 907) recommending that H.B. No. 1198 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1198, entitled: "A BILL FOR AN ACT RELATING TO CRITERIA FOR EXTENDED TERMS OF IMPRISONMENT," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Tom, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 908) recommending that H.B. No. 971 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 971, entitled: "A BILL FOR AN ACT RELATING TO PROSTITUTION," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Tom, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 909) recommending that H.B. No. 1400 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1400, entitled: "A BILL FOR AN ACT RELATING TO BALLOT ACCESS FOR POLITICAL PARTIES," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Takamine, for the Committee on Water and Land Use, presented a report (Stand. Com. Rep. No. 910) recommending that H.B. No. 1365, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1365, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONSERVATION DISTRICT USE PERMITS," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Takamine, for the Committee on Water and Land Use, presented a report (Stand. Com. Rep. No. 911) recommending that H.B. No. 1366, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1366, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONSERVATION DISTRICT USE PERMITS," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Takamine, for the Committee on Water and Land Use, presented a report (Stand. Com. Rep. No. 912) recommending that H.B. No. 1673, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1673, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND USE," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representative Takamine, for the Committee on Water and Land Use, presented a report (Stand. Com. Rep. No. 913) recommending that H.B. No. 1341, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1341, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND USE," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representatives Takamine and Tarnas, for the Committees on Water and Land Use and Ocean Recreation and Marine Resources, presented a joint report (Stand. Com. Rep. No. 914) recommending that H.B. No. 411, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the joint report of the Committees was adopted and H.B. No. 411, HD 1, entitled: "A BILL FOR AN ACT RELATING TO UNAUTHORIZED STRUCTURES," passed Second Reading and was placed on the calendar for Third Reading with Representative Takamine being excused.

Representatives Jones and Tarnas, for the Committees on Agriculture and Water and Land Use, presented a joint report (Stand. Com. Rep. No. 916) recommending that H.B. No. 125 pass Second Reading and be placed on the calendar for Third Reading.

Representative Okamura moved that the joint report of the Committees be adopted and H.B. No. 125 pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative M. Oshiro.

Representative Fox rose to speak in opposition to the bill, stating:

"This bill is the version of the LESA bill which has come before the House many times. In its present version, it is opposed by almost everybody, from the Sierra Club to the Land Use Research Foundation; most importantly, by the Department of Agriculture which has serious concerns of the device that's used to measure agricultural land.

"This is a very flawed bill; it got no testimony really in support of it, and I would urge my fellow colleagues to vote this bill down.

"Thank you."

Representative Meyer then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered."

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

"By looking at the committee report, Mr. Speaker, it is my understanding that supportive testimony was received from the Hawaii Farm Bureau.

"It is my understanding that the Hawaii Farm Bureau is comprised of farmers throughout the State, and I think that's an important point in support of this bill.

"Thank you, Mr. Speaker."

Representative Tarnas then rose to speak in support of the bill, stating:

"The land evaluation and site assessment program is much needed in this State for a number of reasons. One of them is that we need to identify and protect agricultural lands. Clearly in my district on the Big Island, there's many of those lands.

"And a related issue is that those lands that had previously been designated as agricultural lands may not always be most appropriately classified as such. By going through this land evaluation and site assessment program and through the protocol, those lands that may be more appropriately designated as rural land could be so classified, and in doing so, would open up additional land for affordable housing. And housing is clearly one of our critical needs in our community today.

"I understand there certainly are concerns with this measure; it is not perfect. But I do feel it is very appropriate for us to move ahead with this bill. We do have other opportunities to work this out in conference with the Senate, if we can get it through the Senate, but I think that it is appropriate to move forward with it, and I do ask for the support of my colleagues here in the House.

"Thank you, Mr. Speaker."

Representative Jones then rose to speak in support of the bill, stating:

"I just want to point out that we had nine testimonies on this bill. One was in favor, by the Farm Bureau. We had four supporting the intent of this bill but they had some concerns about the bill. We had two people that testified in opposition to the bill, and two others that wanted the bill to go through the process so eventually we can identify those ag lands, and the non-important ag lands can go to the counties for their review and control.

"So basically, what we wanted to do was to keep the discussion going on this bill so that we can address the concerns that were raised and eventually be in conformance with the Constitution.

"Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the joint report of the Committees was adopted and H.B. No. 125, entitled: "A BILL FOR AN ACT RELATING TO LAND USE," passed Second Reading and was placed on the calendar for Third Reading with Representatives Fox and Meyer voting no, and Representatives Menor and Takamine being excused.

SUSPENSION OF RULES

On motion by Representative M. Oshiro, seconded by Representative Thielen and carried, the rules were suspended for the purpose of considering bills on Third Reading on the basis of a modified consent calendar. (Representatives Menor and Takamine were excused.)

STANDING COMMITTEE REPORTS

Representative Yonamine, for the Committee on Labor and Public Employment, presented a report (Stand. Com. Rep. No. 917) recommending that H.B. No. 1708 pass Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1708, entitled: "A BILL FOR AN ACT RELATING TO BENEFITS FOR

EMPLOYEES IN THE DEPARTMENT OF EDUCATION," passed Third Reading by a vote of 49 ayes, with Representatives Menor and Takamine being excused.

Representative Tarnas, for the Committee on Ocean Recreation and Marine Resources, presented a report (Stand. Com. Rep. No. 918) recommending that H.B. No. 1698, HD 1, pass Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1698, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FILM PERMITTING," passed Third Reading by a vote of 49 ayes, with Representatives Menor and Takamine being excused.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 919) recommending that H.B. No. 129, HD 1, pass Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 129, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PARENT-COMMUNITY NETWORKING CENTERS," passed Third Reading by a vote of 49 ayes, with Representatives Menor and Takamine being excused.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 920) recommending that H.B. No. 647 pass Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 647, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC HEALTH NURSING," passed Third Reading by a vote of 49 ayes, with Representatives Menor and Takamine being excused.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 921) recommending that H.B. No. 1115 pass Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1115, entitled: "A BILL FOR AN ACT RELATING TO EDUCATIONAL ASSESSMENT AND ACCOUNTABILITY," passed Third Reading by a vote of 49 ayes, with Representatives Menor and Takamine being excused.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 922) recommending that H.B. No. 1653, HD 1, pass Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1653, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAX CREDITS TO FACILITATE REGULATORY OVERSIGHT BY THE INSURANCE COMMISSIONER," passed Third Reading by a vote of 49 ayes, with Representatives Menor and Takamine being excused.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 923) recommending that H.B. No. 1662 pass Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1662, entitled: "A BILL FOR AN ACT RELATING TO THE STATE

AQUARIUM," passed Third Reading by a vote of 49 ayes, with Representatives Menor and Takamine being excused.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 924) recommending that H.B. No. 1751, HD 1, pass Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1751, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE SPECIAL LAND AND DEVELOPMENT FUND," passed Third Reading by a vote of 49 ayes, with Representatives Menor and Takamine being excused.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 925) recommending that H.B. No. 1717 pass Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1717, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR THE STATE MEDICAL ASSISTANCE PROGRAM," passed Third Reading by a vote of 49 ayes, with Representatives Menor and Takamine being excused.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 926) recommending that H.B. No. 1830, HD 1, pass Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1830, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY MEDICAL SERVICES," passed Third Reading by a vote of 49 ayes, with Representatives Menor and Takamine being excused.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 927) recommending that H.B. No. 1831, HD 1, pass Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1831, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF HEALTH," passed Third Reading by a vote of 49 ayes, with Representatives Menor and Takamine being excused.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 928) recommending that H.B. No. 1984 pass Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1984, entitled: "A BILL FOR AN ACT RELATING TO DRUG ABUSE," passed Third Reading by a vote of 49 ayes, with Representatives Menor and Takamine being excused.

Representative Tom, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 929) recommending that H.B. No. 1718 pass Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1718, entitled: "A BILL FOR AN ACT RELATING TO RECOVERY OF PAYMENTS," passed Third Reading by a vote of 49

ayes, with Representatives Menor and Takamine being excused.

Representative Tom, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 930) recommending that H.B. No. 460 pass Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 460, entitled: "A BILL FOR AN ACT RELATING TO THE DISPOSITION OF FINANCIAL DISCLOSURE STATEMENTS," passed Third Reading by a vote of 49 ayes, with Representatives Menor and Takamine being excused.

Representative Tom, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 931) recommending that H.B. No. 1012 pass Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1012, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL DISCIPLINE," passed Third Reading by a vote of 49 ayes, with Representatives Menor and Takamine being excused.

Representative Tom, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 932) recommending that H.B. No. 1247 pass Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1247, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL PROTECTION," passed Third Reading by a vote of 49 ayes, with Representatives Menor and Takamine being excused.

Representative Tom, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 933) recommending that H.B. No. 1965, HD 1, pass Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1965, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HARMFUL AQUATIC LIFE," passed Third Reading by a vote of 49 ayes, with Representatives Menor and Takamine being excused.

Representative Takamine, for the Committee on Water and Land Use, presented a report (Stand. Com. Rep. No. 934) recommending that H.B. No. 2244 pass Third Reading.

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2244 pass Third Reading, seconded by Representative M. Oshiro.

Representative Thielen rose to speak against the bill, stating:

"My comments are made as an individual legislator, not on behalf of the caucus, Mr. Speaker. I do have some very serious concerns about this bill because of the testimony that we received in the Committee from residents in Waimanalo.

"There is a waste facility in Waimanalo called Unisyn, and it evidently is causing significant concern to residents in that area. I have received a number of phone calls from residents in that district since our hearing on this bill.

"This bill, as applied to the Unisyn facility in Waimanalo, would remove some of the land use protections that currently have been in place for that facility, and the calls that I have received from the community are that they are very much opposed to this bill.

"So, therefore, I am going to vote no on this bill, Mr. Speaker, and I would hope that other members would take a harder look at it in case it does pass today. We may have another opportunity were it to be considered and passed by the Senate in an amended form. We could have an opportunity to just say no to it.

"Thank you."

Representative Morita then rose to speak in support of the bill, stating:

"Mr. Speaker, in the State land use, there are four designations: agriculture, conservation, urban and rural. Not all counties have rural designation within their county zoning.

"The only appropriate use that composting would fit under is the agriculture designation. And this bill is to remove one layer of decision making by making composting an acceptable use in the ag designation. So basically, it is a policy that composting is an appropriate use in agricultural-related lands and the finer tuning of planning should take place on the City and County level.

"With regard to the Unisyn issue, the appropriate decision-making review process will take place in the City and County of Honolulu. It is also my understanding that the Unisyn project is also going through an EA process through DLNR, so I believe that there will be proper review of the project. So I stand in support of this bill."

Representative Goodenow then rose to speak in support of the bill with reservations, stating:

"Composting is a very important part of the future of waste management for our State, and I realize the importance of moving forward on this matter. I am the Representative for the Waimanalo district which has been brought up and so I feel compelled to say a few things.

"My reservations on this bill are that it may reduce the amount of public input through the public hearing process. Now, I agree that duplicative public hearings that are not necessary should not be mandated. However, I am concerned that if at the county level there is not a public hearing, and if there would no longer be any need for the special use permit that is currently required, there would be no public hearing.

"I do feel, however, that this can be addressed as the bill moves forward, and so I would like the Clerk to record a yes with reservations.

"Thank you."

The Chair "so ordered."

Representative Marumoto then rose to speak against the bill, stating:

"I received a letter from a neighbor of the Unisyn facility, a Mr. Joseph N.A. Ryan. He and his wife have the Hilltop Equestrian Centre, a few thousand feet away from Unisyn, and they are very much opposed to this. With your indulgence, I just would like to point out some highlights of his letter that he wrote to me and some information he sent to the Department of Health.

"His argument is that the facility had been originally designed to process dairy manure and produce electricity and fertilizer. But it has turned into a very large industrial waste facility primarily to process fish entrails, rotting meat scraps, and grease trap residues, and is now asking to be permitted and licensed on 21 acres of prime agricultural land.

"But he feels that Unisyn is a major polluter. He believes that Unisyn pumped 1.5 million gallons of untreated effluent into Inoaole Stream, also called Puha Stream, in November of 1996 under the cover of a recent storm. That effluent water was carried around Makapuu toward Hanauma Bay.

"He sent his objections to the Department of Health and I would just like to. . .

At this point, the Chair interrupted, saying:

"Representative, will you speak to the merits of the bill rather than to that effluent. It doesn't seem to have any connection to the zoning requirement."

Representative Marumoto continued, saying:

"Well, definitely, it's an industrial facility and not an agricultural one, and although composting on a small scale may be an agricultural accessory when it's done on the scope of thousands of gallons or millions of gallons of effluent, I think that the scope of it makes it an industrial use. It sounds like we really need a solid waste facility, but not on agricultural property, perhaps in an industrially zoned area.

"I would like to have the letter inserted in the Journal as part of my remarks."

"Thank you, Mr. Speaker."

The Chair "so ordered."

The letter from Joseph N.A. Ryan, owner of Hilltop Equestrian Centre, is hereby inserted:

"Joseph N.A. Ryan, Owner
Hilltop Equestrian Centre
P.O. Box 562
Waimanalo, Hawaii 96795

November 17, 1996

Barbara Marumoto, Representative
House of Representatives
State Capitol
Honolulu, Hawaii 96813

RE: Unisyn Biowaste Technology Pollution

Dear Representative Marumoto:

Unisyn Biowaste Technology is a company that began operating as an accessory to the Waimanalo Dairy. The facility was originally designed to process dairy manure and produce electricity and fertilizer. Unisyn is now an industrial waste facility primarily processing fish entrails, rotting meat scraps, and grease trap residues and is asking to be permitted and licensed on twenty-one (21) acres of prime agricultural land. The facility is a nuisance and a hazard to health and operates in violation of the intent of the Legislature of the State of Hawaii regarding preserving agriculture.

Unisyn Biowaste Technology is being sponsored by the Department of Health, Solid Waste Management Branch, in their application for a license to operate an industrial

waste facility on agricultural land. The operation of this facility affects your district during certain wind conditions. I live within 2000 feet of Unisyn and have been subjected to every nuisance created by them. That proximity has made me sensitive to the odor. I have smelled the odor from Unisyn while in Hawaii Kai.

Unisyn is also a major polluter. I have probable cause to believe Unisyn pumped 1.5 million gallons of untreated effluent into Inoaole Stream (a.k.a. Puha Stream) on 11-13-96 under cover of the recent storm. That effluent water was carried by ocean current, around Makapuu and toward Hanauma Bay.

I ask that you oppose the action of the State Department of health.

Thank you,

/s/ Joseph N.A. Ryan
Owner
Enclosure"

"November 14, 1996

Solid Waste Management
State Dept. of Health
919 Ala Moana Blvd., Suite 210
Honolulu, Hawaii 96814

To Whom It May Concern:

Re: Unisyn Biowaste Technology License Comments

I hereby object to an Industrial processor of waste such as fish entrails, rotting meats, grease trap residues and other organic garbage on Waimanalo agricultural land.

I am the nearest upwind neighbor of Unisyn not related to the dairy. I am subjected to the every nuisance created by the facility you wish to license. My objections include the following:

1. Since Unisyn has evolved from an agricultural accessory to an industrial processor of commercial waste, ie; fish entrails, rotting meats and grease trap residues, and occupies agricultural land, the issuance of a permit to Unisyn is permitting Unisyn to exercise the State's right of eminent domain without just compensation.

2. I object that government agencies, including the Federal EPA, the State's Clean Air Branch, Wastewater Management and others, defer to the State Department of Health Solid Waste Management section as the lead agency regarding Unisyn while the Director of Solid Waste Management claims no legislative authority or responsibility.

3. The Hawaii Revised Statutes Section 166-1 states: 'The legislature finds that important agricultural lands should be preserved for productive purposes: the contribution of diversified agriculture and aquaculture to export and local markets should be expanded, thereby increasing its importance in the State's economy; and continued use of the State's agricultural land resources should be ensured by providing lands to new farmers, displaced farmers, and other qualified farmers. In order to meet these goals, the objectives of the State shall include the provisions of: lands of appropriate size and productive potential, with an adequate supply of water, to ensure economically viable farm operations; lands at a reasonable cost with long term tenure and security from urbanization pressure; and lands with common facilities and activities to encourage farm production and distribution economies.' I object to the permitting of Unisyn operations because the dairy farm land is important agricultural land, is not

being preserved as agricultural, and the permitting is urbanization pressure the legislature does not condone.

4. I object to the issuance of a permit to Unisyn because the rapid evolution of Unisyn from a processor of Agricultural waste to an Industrial waste facility was a ruse or ploy designed to avoid the requirements of Environmental Impact Statements, land use designations, zoning, sunshine laws and other legal requirements Unisyn would have been required to submit to for a new Industrial waste processing facility.

5. The Hawaii Revised Statutes in Section 711-1101 states a person commits the offense of Disorderly Conduct if he recklessly creates a physically offensive condition by any act that is not performed under any authorized license or permit. Filling the air with an offensive and sickening substance is reckless and Unisyn operates outside its license or permit as evidenced by fines and penalties imposed on it.

6. The Land Use Ordinances Section 5.20(a) state the purpose of agricultural districts is to maintain a strong agricultural economic base and to prevent unnecessary conflicts among incompatible uses. I object to Unisyn because it does not preserve agriculture and is not compatible with agricultural use in the Waimanalo Agricultural Subdivision. The application for a permit for Industrial Waste Processing is causing an unnecessary conflict in Waimanalo.

7. Section 5.20(b) of the Land Use Ordinances state the intent of the AG-1 restricted agricultural district is to conserve and protect important agricultural lands for the performance of agricultural functions by permitting only those uses which perpetuate the retention of these lands in the production of food, feed, forage, fiber crops and horticultural plants. I object to the Unisyn facility as a processor of industrial waste in Waimanalo because the land occupied does not produce food, feed, forage, fiber crops or horticultural plants as is the intent of Land Use Ordinance Section 5.20(b).

8. I object to the permitting of Unisyn as a processor of waste at its present location because the land is prime agricultural land devoted to the unique operation of a dairy whose milk is of prime importance to the State of Hawaii and its children.

9. Leases issued in Waimanalo provided certain security to the Dairy operations in Waimanalo. The leases restricted certain animals from being raised on adjoining leaseholds to prevent the spread of diseases to the dairy herd. The acceptance of rotting meats and other garbage brings the same viruses, bacteria and pathogens sought to be insulated into contact with the dairy herd that occupies the same leasehold as Unisyn. I object to the permitting of Unisyn's operations that will damage the milk supply of Honolulu and will adversely affect the population of Oahu.

10. I object to the permitting of Unisyn operations on Waimanalo Agricultural Land because more appropriate permitting of the same or similar operation is available in Campbell Park, Kapaa, 1-2 zoning districts, or another 'isolated' area is available (please note the Blanche Pope Elementary School is less than 4000' from Unisyn and in the path of 'Kona' winds while Makakilo is more than two (2) miles from Campbell Park).

11. The Land Use Ordinances in Section 4.40-13 state the manufacture, storage and distribution of explosives and other materials hazardous to life or property are subject to standards that include the storage shall be effectively screened by a natural landform or artificial barrier either surrounding the entire site or surrounding

each storage magazine. I object that Unisyn found fit to include alarms to predict explosions of the volatile gases and 'other materials hazardous to life or property' that accumulates within its 'digesters' without creating the landforms or barriers required by Land Use Ordinances Section 4.40-13.

12. I object to the issuance of a permit to Unisyn because no Environmental Impact study was done for a facility that will severely impact the Waimanalo by accepting more than 100 Tons of fish entrails, rotting meats and grease trap residues per day.

13. That the Hilton Hawaiian Village is a primary user/supplier of the Unisyn facility and in a State Department of Health Press Release is responsible for a Hepatitis A outbreak. Food catered to the Governor's Mansion by the Hilton Hawaiian Village is alleged to be responsible for the transmission of Hepatitis A to guests attending the Governor's banquet. I object that the same food wastes containing Hepatitis A were transported to the Unisyn Waimanalo facility where the Hepatitis A virus was cultured in a warm and moist environment and made into an airborne substance that is carried into the neighborhood and across the Koolau's by the wind.

14. Hepatitis A is known to be present on raw lettuce. Lettuce enters Unisyn's facility at its initial collection points. Truck washing runoff and effluent water containing Hepatitis A is dumped into the pond. Hepatitis A in pond water is then intentionally distributed to Waimanalo farmers without their knowledge. Hepatitis A is sold at the Farmers Market and retail grocers. I object to Unisyn selling my family, and my Governor, the Hepatitis A we eat in our dinner salad.

15. I object that odorous airborne substance, including viruses, greases and dust, created by Unisyn are present in Waimanalo every hour of every day, making the operation of the Unisyn Biowaste Technology facility a twenty-four (24) hour operation.

16. Unisyn's Operation Manual evidences the fact that bacteria are cultured within the digesters. Pathogens, such as E. coli 0157, Salmonella, Hepatitis A, Hepatitis B, Brucellosis, and others, introduced to Unisyn's digesters are also cultured for at least thirty (30) days then combined with green waste and spread over five (5) acres for another fifteen (15) days where the pathogens are exposed to wind and weather and launched into the air during the 'turning' of the windrows. I object to the windborne pathogens that settle on my plate while I eat in my dining room.

17. The decomposition process creates heat as a by-product and external heat is applied to the digester tanks. Heating grease produces an airborne substance visible on the walls and surfaces above and around the cooking areas in any restaurant. I object to the issuance of any permit to Unisyn because it produces airborne substances that I and Honolulu residents breathe.

18. I object to the permitting of Unisyn because of the contents of the substances emanating from the facility to include Hydrogen Sulfide, Sulfuric Acid, Ammonia, and other volatile organic gasses.

19. I object to the permitting of Unisyn because there are no controls to prevent the inclusions of Heavy Metals (mercury), Hazardous Materials (antifreeze, motor oil), and Toxic Chemicals (PBC's) from entering the disposal systems at its initial collection points throughout Honolulu and emerging in its by-products and waste being distributed.

20. Waimanalo Agricultural Subdivision land is under the control of the Department of Land and Natural Resources whose leases do not permit subletting. Since the lease controlling the land Unisyn occupies appears to have been altered and is a sublease, it is not the same lease the dairy owned and was not offered at a public auction as a new lease. The occupation of the land is not legal and any permits issued to an illegal occupier of the land cannot be a valid permit.

21. The Board of Water Supply will soon drill a test well on property just mauka (south) of the Unisyn facility. I object to Unisyn's permit application because it will affect water quality in Waimanalo.

22. Section 340E-4 of the Hawaii Revised Statutes states: 'The director, upon learning that a contaminant is present in or likely to enter a public water system or an underground source of drinking water and may present an imminent and substantial danger to the public, may take such actions as necessary to protect the health of the public...' I object to Unisyn because they are operating a gravity powered waste water injection well on State land without a permit and will introduce toxic nitrate and potassium rich water into the watertable in Waimanalo and that no action has been taken to protect the health of the public.

23. As evidenced by a letter from then Director John C. Lewin M.D., the State Department of Health supported the funding of Unisyn in March of 1990, to dispose of the 150 tons of cattle waste generated per day. I object to the issuance of a permit to Unisyn for the industrial processing of fish entrails, rotting animal flesh and grease trap residue because it does nothing to alleviate the accumulated dairy waste and adds an additional 8,000,000 gallons of extremely foul waste to the Waimanalo Community. This has been accomplished without regard to Environmental issues or the law.

24. Unisyn was initially allowed a 'default permit' for the conversion of dairy manure to usable byproducts and was considered an agricultural accessory to the existing dairy. Since Unisyn operates outside its existing permit, the State of Hawaii should prohibit this Industrial misuse of land where people engaged in Agriculture live and work.

25. I object that the fish entrails, rotting animal flesh, putrefying grease processed at Unisyn is alien to Waimanalo and is transported to Waimanalo as a pretext of being an agricultural venture.

26. I object to the intentional trespass by Unisyn. Unisyn intentionally processes waste which produces an odor. The odor trespasses onto adjoining properties. A permit should not issue as it will be an approval of a criminal trespass as well as a tortious trespass.

27. Section 322-1 of the Hawaii Revised Statutes states: 'The Department of health and its agents shall examine into all nuisances, foul or noxious odors, gases or vapors, water in which mosquito larvae exist, sources of filth, and all causes of sickness and disease, on shore, and in any vessel, which may be known to them or brought to their attention, which in their opinion are dangerous or injurious to health, and into any and all conditions created or existing which cause or tend to cause sickness or disease or to be dangerous or injurious to health, and shall cause same to be abated, destroyed.' I object to the permitting of Unisyn because the State Department of Health claims no responsibility for the control of odors emitted by any private enterprise and has not caused the odors to be abated yet shows knowledge of this law by commending Unisyn on its mosquito control.

28. I object to the issuance of a permit to Unisyn because the creation of an Industrial waste facility by the State of Hawaii on land adjacent to mine prohibits the quiet enjoyment of the property I have developed. The toxins and gasses produced by Unisyn and to be 'permitted,' adversely affect myself, my spouse, my children, my grandchildren, my customers, my neighbors and my community.

29. I object to permitting Unisyn because it has physically sickened Betty Yoshikawa, Sarah Gene Conrod, Kelly Ryan, Suzi Hillis, Holly Hartnett, Al Verano, my spouse, myself, my customers and others.

30. The prevailing wind in Waimanalo carries any nuisance created in Waimanalo directly to the Koolau watershed and downtown Honolulu. Nature's composting process produces Sulfur Dioxide (SO₂) and the unnatural process of accumulating many tons of waste produces concentrated amounts of SO₂. SO₂ becomes 'Acid Rain.' I object to the issuance of a permit because it will adversely affect the health of the people of Honolulu and the Koolau Watershed.

31. The reservoir into which Unisyn's pathogen containing waste water is dumped is not leased to Unisyn and is owned and operated by the State of Hawaii. Unisyn claims no responsibility for the pond while treating the water of the pond in an attempt to reduce odors from the pond. That truck washing runoff containing pathogens are directed into the pond without treatment makes the State of Hawaii responsible as owner of the pond.

32. The reservoir into which waste water is dumped sits on land which to some degree is permeable. The addition of tons of polluted water to the pond forces nitrate and potassium toxic water into the water table. The reservoir is turned into an injection well and is not permitted as a waste water injection well. The proper operation of the legal and prior existing Waimanalo Sewage Treatment Facility is impacted.

33. During the heavy rains between 11-9 and 11-13-96, Unisyn's effluent pond should have received heavy runoff from their buildings and parking lots and other areas as described in the Unisyn Biowaste Technology Operation Manual. My own property received over eleven inches (11") in two days. I viewed the pond on 11-13-96 at about 12:00 noon and found the water level to be at the same vegetation mark it always is at. I saw a pump whose 'running light' indicated it was functioning. The pump appeared to be pumping water into Puha Stream. I contacted various agencies to see if Unisyn complied with 'Unisyn will consult with the appropriate regulation agencies if 20% of the water storage in the pond can be released' statement in the operations manual. Solid Waste Management George Teramoto referred me to Tomas See at Wastewater Management. Mr. See referred me to Lester Muramoto at Clean Water. Nobody received any request to release water from the pond. I also find it inconceivable that any farmer would accept water while receiving such an excessive rain fall at the same time. This action raises the probability that Unisyn intentionally released water through a 'farmer' fronted by Unisyn, that intentionally released the untreated effluent water into the stream. On 11-14-96, I found no immediate response to the complaint was made. I object to Unisyn's intentional polluting to the environment.

34. Section 340F-1 of the HRS defines 'Water treatment plant' means the various facilities used in the treatment of water, including source, treatment, storage, and distribution, serving a public water system. Unisyn extracts water from fish entrails, rotting meat, and spoiled vegetables providing the source water, it stores that

effluent water in a State reservoir outside their leasehold, and distributes that effluent water to farmers and discharges that untreated effluent water into a natural stream. Unisyn's operations manual show no reference to any wastewater certification or operator training as required in HRS section 340F and if duly certified has exhibited sufficient evidence to require the permit to be revoked, suspended or refused as required in section 340F-11 of the Hawaii Revised Statutes.

35. I object that Unisyn Biowaste Technology as a manufacturer, processor and producer of waste water is not licensed or certified as, and has no trained or certified operators of, a water treatment facility as required under section 342 of the Hawaii Revised Statutes.

36. I object to Unisyn on grounds that the processing of garbage is a public necessity just as the generation and transmission of electricity, the transportation of people, the regulation of our telephone, and it not governed by the Public Utilities Commission.

37. I object to Unisyn claiming to produce fertilizer while spreading another manufacturer's retail product on their own lawn.

38. I object to Unisyn because Waimanalo is served by a two-lane road and any increase in traffic on Kalaniana'ole Highway contributes to traffic congestion.

39. I object to the permitting of Unisyn Biowaste Technology because it was found in violation of regulations on August 9th, 1995, continues to operate in violation of those regulations and has accrued fines of at least \$7,000.. without making the corrections necessary according to the Department of Land Utilization's Monitoring and Compliance Branch.

40. I object that the Department of Business Economic Development and Tourism spends all its money on Tourism rather than assisting in the placement of this industrial waste facility in appropriate 1-2 zoning.

41. The original facility Unisyn now occupies, was built with public funds in the form of major tax credits as a dairy accessory. It no longer fills that capacity and must not be permitted on State Agricultural land.

42. I object that Unisyn is being placed within one (1) mile of three schools and the Kamehameha pre-school and the Waimanalo WIC program (pre and post-natal health program).

43. I object that the State Department of Health being charged by law with the responsibility of investigating health complaints has not investigated any; being charged by law with the abatement of odors, noxious fumes and gases has not caused that abatement; that being charged by law with the investigation of pollution has not adequately investigated; and being responsible to the residents of the State of Hawaii has chosen to support Unisyn Biowaste Technology in the permitting of the operations.

Last: The Unisyn facility was developed as a prototype and is the only facility of its kind in the world. It is time to say 'the idea is right, let's put it in an appropriate setting,' not in an agricultural subdivision surrounded by housing developments and schools.

I do appreciate the opportunity to be allowed to comment.

Thank you,

/s/Joseph N.A. Ryan
Owner"

Representative Morihara then rose in support of the bill with reservations, stating:

"I support the need for composting and its importance to agriculture. I am concerned about the broad language of the bill and the fact that it may allow unintended non-agricultural uses on ag land."

Representative Meyer then rose to speak against the bill, stating:

"While on the face of it, this bill looks like it is just dealing with your backyard composting and seems like a logical use of agricultural land, Mr. Speaker, I believe it was initiated by the County to eliminate one hurdle for Unisyn. And the reason I say that is because Unisyn cannot get a permit.

"An ordinance was passed by the City and County which would require all restaurants and food processors to separate their rubbish -- keep the wet waste separate -- and take it to a composter, and they originally called it bioconversion, which Unisyn was the only company that would meet that criteria. That ordinance was broadened, but Unisyn is still the major company that would have to take that waste. They have not been able to get their permit. It is true that the Department of Land Utilization is having them go through a process to get their permit, but it is also true that their use, with the law the way it is now, requires a profit-sharing for a special use permit.

"And as was mentioned by our Floor Leader, this is a very controversial plant. While the end result is a good one -- none of us would argue against the idea of recycling and turning something good out of waste -- the truth is, it's in a place where it shouldn't be, and there is a great deal of public outcry against this plant there. And so this could also crop up in other people's neighborhoods. Those on Maui -- you might find somebody who calls himself a composter while they're having all kinds of garbage coming in there.

"Composting has to be defined much more clearly, but I believe this is a bill that was introduced specifically to benefit Unisyn. And knowing the problems that are out there, I cannot support it.

"Thank you, Mr. Speaker."

Representative Jones then rose to speak in support of the bill, stating:

"As was previously said, basically this bill streamlines the public hearing process to eliminate the Land Use Commission from the process. Sometimes, processing these requests for permission to compost takes about a year in the Land Use Commission, and from there it goes to the County Planning Office.

"What it does is, it merely eliminates the Land Use Commission from the hearing process. All of the safeguards are within the County Planning jurisdiction so whenever a person is making compost from material from his own farm, he can do that under this bill. But whenever they want to go outside and get material from another dairy, or the bakeries, or use grease trap material for composting, they have to go through the County process.

"So the safeguards are still there. All it does is, it streamlines the process so they don't have to go through the Land Use Commission. They still have to go through the County Planning Office.

"Thank you, Mr. Speaker."

Representative Thielen then rose and stated:

"I would just ask the members to pull the bill out and take a look at this. The original intent of this section of the law was to allow bona fide agricultural services and uses that support agricultural activities of a fee or leasehold owner to be conducted in the agricultural district, whether or not those agricultural supportive activities for that fee or leasehold owner were conducted on his or her site, or on another site in the agricultural district. For those of you who were here before, a few years ago this was the Maui County slaughterhouse bill that raised a lot of considerations and concerns.

"The intent was always to permit an agricultural use that would help the agricultural owner in that district. What's happened is a commercial industrial company has taken advantage of this bill and set up an operation in Waimanalo, in an area that is very heavily populated. It is an inappropriate use. An industrial use in Waimanalo, frankly, does not belong there.

"By allowing the composting and similar activities, which now is coupled with the City and County mandate to all food service establishments, we are really expanding an industrial use to a significant extent in Waimanalo. We have properly zoned lands; we have industrial lands where Unisyn could move.

"What we're doing is putting that waste disposal, that waste problem, the associated smells, the associated health consequences, into the Waimanalo community through this bill. I think it is a serious mistake.

"I don't think we should pass the measure, and I think, frankly, it's poor judgment, Mr. Speaker. It's not a land use that belongs in an area that is heavily populated; it's a land use that belongs in an industrial area. Just as a slaughterhouse did not belong in the upper regions of Kula.

"Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2244, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL DISTRICTS," passed Third Reading by a vote of 46 ayes to 3 noes, with Representatives Marumoto, Meyer and Thielen voting no, and Representatives Menor and Takamine being excused.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 935) recommending that H.B. No. 1719 pass Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1719, entitled: "A BILL FOR AN ACT MAKING EMERGENCY APPROPRIATIONS FOR THE RANDOLPH-SHEPPARD REVOLVING ACCOUNT AND FOR THE BLIND SHOP REVOLVING AND HANDICRAFT FUND," passed Third Reading by a vote of 49 ayes, with Representatives Menor and Takamine being excused.

The Chair directed the Clerk to note that H.B. Nos. 1708, 1698, 129, 647, 1115, 1653, 1662, 1751, 1717, 1830, 1831, 1984, 1718, 460, 1012, 1247 and 1965 had passed Third Reading at 4:01 o'clock p.m.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 936) recommending that H.B. No. 145, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 145, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AN EMERGENCY AND BUDGET STABILIZATION FUND," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 937) recommending that H.B. No. 472 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 472, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 938) recommending that H.B. No. 1691, HD 1, as amended in HD 2, pass Second Reading and be placed on the calendar for Third Reading.

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1691, HD 2, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative M. Oshiro.

Representative Halford rose to speak against the bill, stating:

"I would like to comment that in the committee report itself, it describes this money as savings. In fact, I believe when an employee works, the money is theirs at that point, and this would be borrowing.

"Also, I want to point out that when the day shifts from June 30th to July 1st, it is essentially an accounting shift, that most of the money that we are considering savings is achieved that way, and I will make more remarks on Third Reading.

"Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1691, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PAYROLL PERIODS," passed Second Reading and was placed on the calendar for Third Reading with Representative Halford voting no, and Representatives Menor, Takamine and Takumi being excused.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 939) recommending that H.B. No. 1692, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1692, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC CONTRACTS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 940) recommending that H.B. No. 1689, as amended in HD 1,

pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1689, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EXPENDITURE OF STATE FUNDS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 941) recommending that H.B. No. 1686, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1686, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 942) recommending that H.B. No. 1639, HD 1, as amended in HD 2, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1639, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CONFORMITY TO THE INTERNAL REVENUE CODE," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 943) recommending that H.B. No. 1031, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1031, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative M. Oshiro.

Representative Marumoto rose and stated:

"Please cast a no vote for me on Second Reading. I am objecting to the sunseting of the tax credit for keiki passenger restraint systems, \$25.

"Thank you."

Representative McDermott then rose in opposition to the bill and asked the Clerk to record a no vote for him, and the Chair "so ordered."

Representative Pendleton then rose in opposition to the bill and asked that his remarks be entered into the Journal, and the Chair "so ordered."

Representative Pendleton's remarks are as follows:

"Mr. Speaker, I rise in opposition to House Bill 1031, House Draft 1.

"I have a number of reasons for voting no on H.B. 1031. Let me preface my remarks by stating that this bill

will implement the recommendations, or at least some of the recommendations, of the tax review commission, particularly with respect to the repeal of certain general excise tax exemptions and income tax credits and deductions.

"I have a great deal of respect for the tax review commission. It is comprised of many learned and compassionate individuals. I agree with many of the proposals which have come out of the commission's work.

"However, I am voting 'no' on House Bill 1031, House Draft 1, because of a specific provision. A provision which I believe is an improper, inappropriate, and wholly unwarranted provision.

"Permit me to refer to Section 11 of the bill. The relevant language is on page 20 of H.B. 1031, HD 1. You will notice that the tax credit to promote the purchase of child passenger restraint systems is being repealed.

"I am all for ensuring that the State has the resources to provide basic services, but I am opposed to repealing this particular tax credit because it generates revenue for the state but at what cost? What will happen from a repeal of this provision which enables the poor and indigent to purchase car safety seats?

"Are we going to see an increase in infant and toddler fatalities with the passage of House Bill 1031? I do not want to see this, and it is my sincere hope and prayer that such will not result from our actions. We all know that car seats for little children can mean the difference between life and death. And it is conceivable that this tax credit has enabled poor and indigent citizens to purchase such seats for the otherwise vulnerable children.

"I am afraid that the unintended consequence of our actions here in passing House Bill 1031 may result in fewer poor infants and toddlers riding in car seats, not because their parents do not care, but because their parents cannot afford such car seats.

"Given the fatalities which have occurred in this state -- since 1992 there have been three fatalities, even with the current safety regulations and the corresponding tax credit in place, as well as countless injuries -- and in other states across the United States, can we really justify removing this tax credit provision which would enable the poor to afford safety seats?

"I think that we cannot justify removal of this tax credit. Accordingly, I vote no and will oppose any other like measure which puts the State of Hawaii's need for revenues above the safety of the poor. We have a bloated bureaucracy. There is fat that we can cut.

"I do not think it is good public policy to eliminate those provisions in our tax code, such as this provision, which promote and facilitate child safety. I cannot and will not place dollars above safety. Therefore, I cast a 'no' vote for House Bill 1031, House Draft 1.

"Thank you, Mr. Speaker."

Representative Moses then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered."

Representative Halford then rose in opposition to the bill and asked that his remarks be entered into the Journal, and the Chair "so ordered."

Representative Halford's remarks are as follows:

"Mr. Speaker, this tax increase bill is another move by this Legislature to balance our budget by taxing the most fragile of our society. It includes a tax increase on the disabled. And it raises taxes on mothers who need to buy car seats for their children (as required by our law). It is not just another tax increase, it is another tax assault on the weakest members of our community. As such, I must vote 'no' on this bill.

"Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1031, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Second Reading and was placed on the calendar for Third Reading with Representatives Halford, Marumoto, McDermott and Moses voting no, and Representatives Menor, Takamine and Takumi being excused.

Representatives Tarnas, Takamine and Yoshinaga, for the Committees on Ocean Recreation and Marine Resources; Water and Land Use; and Energy and Environmental Protection, presented a joint report (Stand. Com. Rep. No. 944) recommending that H.B. No. 2137, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the joint report of the Committees was adopted and H.B. No. 2137, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COASTAL ZONE MANAGEMENT," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Tom, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 945) recommending that H.B. No. 1382, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1382, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ADJUDICATION OF TRAFFIC INFRACTIONS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Tom, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 946) recommending that H.B. No. 1406, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1406, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CANDIDATE NOMINATION PAPERS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Tom, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 947) recommending that H.B. No. 952, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 952, HD 1, pass

Second Reading and be placed on the calendar for Third Reading, seconded by Representative M. Oshiro.

Representative Thielen rose and asked the Clerk to record a no vote for her, and the Chair "so ordered."

Representative Yoshinaga then rose and asked the Clerk to record an aye with reservations on this bill, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 952, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TORTS," passed Second Reading and was placed on the calendar for Third Reading with Representative Thielen voting no, and Representatives Menor, Takamine and Takumi being excused.

Representative Tom, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 948) recommending that H.B. No. 1589, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1589, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD SUPPORT ENFORCEMENT," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Tom, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 949) recommending that H.B. No. 1590, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1590, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM INTERSTATE FAMILY SUPPORT ACT," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Tom, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 950) recommending that H.B. No. 2163, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2163, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HARASSMENT," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Stegmaier, for the Committee on Education, presented a report (Stand. Com. Rep. No. 951) recommending that H.B. No. 1132, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1132, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE RECODIFICATION OF THE EDUCATION STATUTES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Stegmaier, for the Committee on Education, presented a report (Stand. Com. Rep. No. 952) recommending that H.B. No. 1131, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1131, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative M. Oshiro.

Representative Moses rose to speak against the bill, stating:

"While I believe in the process of allowing SCBM to decide the fate in their schools, this bill portends to authorize each public school's SCBM council to establish community service requirements for graduation from high school.

"What it does in effect is it goes a step further, I believe, and while it requires the DOE to establish such rules to allow SCBM councils to decide if they want to have community service as part of the graduation process, by the simple fact that requiring the DOE to even write rules to require the SCBM councils to consider that community service would become a part of the graduation requirement, I think we're heading in the wrong direction as the Legislature in establishing new requirements for graduation.

"I might point out to my colleagues and to the Speaker that under the current rules, any SCBM school can do this today. We don't need enabling legislation.

"Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1131, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMUNITY SERVICE," passed Second Reading and was placed on the calendar for Third Reading with Representative Moses voting no, and Representatives Menor, Takamine and Takumi being excused.

Representative Stegmaier, for the Committee on Education, presented a report (Stand. Com. Rep. No. 953) recommending that H.B. No. 1138, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1138, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PARENTAL RESPONSIBILITY FOR EDUCATION," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Stegmaier, for the Committee on Education, presented a report (Stand. Com. Rep. No. 954) recommending that H.B. No. 2161, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2161, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 955) recommending that H.B. No. 38, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 38, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 956) recommending that H.B. No. 2052 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2052, entitled: "A BILL FOR AN ACT RELATING TO CREDIT SALES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 957) recommending that H.B. No. 1351, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1351, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 958) recommending that H.B. No. 1856 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1856, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ACCOUNTANCY," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 959) recommending that H.B. No. 939, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 939, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INDUSTRY TAXES AND FEES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 960) recommending that H.B. No. 1853,

as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1853, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MUTUAL BENEFIT SOCIETIES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 961) recommending that H.B. No. 782 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 782, entitled: "A BILL FOR AN ACT RELATING TO THE MOTOR VEHICLE INDUSTRY LICENSING," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 962) recommending that H.B. No. 474, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 474, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUM PROPERTY REGIMES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 963) recommending that H.B. No. 794 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 794, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM COMMERCIAL CODE," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 964) recommending that H.B. No. 1865, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1865, HD 1, entitled: "A BILL FOR AN ACT RELATING TO UNFAIR METHODS OF COMPETITION," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 965) recommending that H.B. No. 692,

as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 692, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CREDIT SALES OF CONSUMER GOODS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 966) recommending that H.B. No. 1446, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1446, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FINANCIAL SERVICES LOAN COMPANIES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 967) recommending that H.B. No. 1450 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1450, entitled: "A BILL FOR AN ACT RELATING TO FINANCIAL SERVICES LOAN COMPANIES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Menor, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 968) recommending that H.B. No. 1881, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1881, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PEST CONTROL OPERATORS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Menor, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 969) recommending that H.B. No. 793, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 793, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUM PROPERTY REGIMES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Yoshinaga, for the Committee on Energy and Environmental Protection, presented a report (Stand. Com. Rep. No. 970) recommending that H.B. No. 2027,

as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2027, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WASTEWATER REUSE," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Yoshinaga, for the Committee on Energy and Environmental Protection, presented a report (Stand. Com. Rep. No. 971) recommending that H.B. No. 1292, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1292, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative M. Oshiro.

Representative Thielen rose to speak against the bill, stating:

"I am speaking again as an individual Representative, not on behalf of the caucus.

"The House Energy and Environmental Protection Committee met, I believe it was yesterday or the day before, ostensibly to vote on a House Bill -- 1292. House Bill 1292 would have required the Department of Land and Natural Resources to adopt rules to authorize responsible commercial and private cultivation of some endangered land plants. Instead, the Committee Chair gutted that bill, and inserted highly controversial language from House Bill 1214 into House Draft 1 of House Bill 1292.

"House Bill 1214, HD 1, guts the endangered species law by allowing developers to enter into land use agreements which allow the incidental taking, or you could use the word 'destruction', of endangered and threatened species. This occurs under the bill without any public oversight or any safeguards. The amended language was highly controversial and strongly opposed by environmental groups such as the Sierra Club, Hawaii Chapter.

"The bill switch was not disclosed in the public hearing notice. And I would like to commend those chairs, such as the Ocean Recreation and Marine Resources Chair, who does disclose if the subject matter of another bill is going to be discussed or considered by a committee, and that chair, the OMR Chair, does disclose this in his public hearing notices. I think that's in the best interest of government, Mr. Speaker.

"The Committee, by not disclosing this switch, shut out public participation when we were there to make this decision. And even worse than this, Section 2 of the amended bill absolutely shuts out the public, and I will quote from it: 'All negotiations between a landowner and the department (this is the Department of Land and Natural Resources) shall remain confidential.' That kind of secrecy, I think, is outrageous.

"State government has a trust responsibility to wisely protect its endangered and threatened species. We perform this function best when we openly discuss and consider ways to enhance our environmental resources, and by involving the environmental community in this process. Frankly, Mr. Speaker, this bill affords none of that protection, and I vote very strongly against the bill.

"I hope you all will read it before Tuesday, and consider the two things: One is the process, and the bill should fall and die just on that alone; and the second is on the subject matter, and the bill should die upon that alone, too.

"Thank you."

Representative Meyer then rose to speak in support of the bill, stating:

"Nearly three-quarters of the extinctions in the United States are from Hawaii, and nearly 40 percent of the endangered plants and birds in the U.S. are Hawaiian species.

"Much of our land is owned by large landowners, ranchers, Bishop Estate has a lot of land, but there are many private property owners who, at present, oftentimes don't want to divulge the fact that they found things because of the disruption that it creates on their property.

"I think this is an effort to try to get some kind of cooperation, a greater voluntary involvement of the private sector, and for that reason I support the bill, and I think the Chair tried to strike a reasonable balance.

"Thank you."

Representative Yoshinaga then rose to speak in favor of the bill, stating:

"Just briefly, Mr. Speaker, because of some of the concerns that have been raised, I feel compelled to address what the Chair did with respect to this bill.

"We heard House Bill 1292 at a hearing at which time some of the members were not present. The Chair announced at that hearing that we would then be considering testimony that frankly was presented by the Department of Land and Natural Resources that requested that the contents, or at least to the extent that was not in contradiction with the purposes or delineation of the title of the bill, be reconsidered by the Committee in terms of keeping a vehicle alive with respect to endangered species.

"Every year, Mr. Speaker, species are being lost forever, and it is the goal of the Environmental Protection Committee to find a compromise that would provide incentives to landowners to cooperate with the State, in terms of preservation of the species.

"It was never the Chair's intent to create some kind of gutting of a bill, and frankly the original contents of 1292 is still in this bill and was amended to provide discretionary authority to the Department of Land and Natural Resources. But the language was inserted to basically provide for a closer parallel of the federal law and policies and provide additional incentives for landowners.

"The Chair is open and willing to discuss this. This is a very important environmental issue with all the parties and this is a discussion vehicle that we need to consider, and I urge all the members to vote in support of this measure.

"Thank you."

Representative Thielen then rose and stated:

"I would like to commend those committee chairs that make sure that their public notices show what is going to actually be considered in the public hearing. That's the problem with this bill, Mr. Speaker -- the process. And

we've gone a long way, Mr. Speaker, since I first was elected in 1990. We've gone a long way to preserve the right of the public to have advance notice. This is a step back into the dark ages. And I still feel that the bill on the process should die and the bill on the merits should die. It's a bad bill.

"Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1292, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ENVIRONMENT," passed Second Reading and was placed on the calendar for Third Reading with Representative Thielen voting no, and Representatives Menor, Takamine and Takumi being excused.

Representative Takamine, for the Committee on Water and Land Use, presented a report (Stand. Com. Rep. No. 972) recommending that H.B. No. 454, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 454, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND USE," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representatives Menor and Tom, for the Committees on Consumer Protection and Commerce and Judiciary, presented a joint report (Stand. Com. Rep. No. 973) recommending that H.B. No. 71, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the joint report of the Committees was adopted and H.B. No. 71, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTION AGENCIES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representatives Menor and Tom, for the Committees on Consumer Protection and Commerce and Judiciary, presented a joint report (Stand. Com. Rep. No. 974) recommending that H.B. No. 367, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the joint report of the Committees was adopted and H.B. No. 367, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LIQUOR," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representatives Menor and Tom, for the Committees on Consumer Protection and Commerce and Judiciary, presented a joint report (Stand. Com. Rep. No. 975) recommending that H.B. No. 791, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the joint report of the Committees was adopted and H.B. No. 791, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMERCIAL PAPER," passed Second Reading and was placed on the calendar for Third Reading with

Representatives Menor, Takamine and Takumi being excused.

Representatives Menor and Tom, for the Committees on Consumer Protection and Commerce and Judiciary, presented a joint report (Stand. Com. Rep. No. 976) recommending that H.B. No. 963, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the joint report of the Committees was adopted and H.B. No. 963, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRADEMARK COUNTERFEITING," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representatives Menor and Tom, for the Committees on Consumer Protection and Commerce and Judiciary, presented a joint report (Stand. Com. Rep. No. 977) recommending that H.B. No. 1975, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Okamura moved that the joint report of the Committees be adopted and H.B. No. 1975, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative M. Oshiro.

Representative Pendleton rose in support of the bill and requested and his remarks be entered into the Journal, and the Chair "so ordered."

Representative Pendleton's remarks are as follows:

"Mr. Speaker, I rise in strong support of House Bill 1975, which relates to landlords.

"Mr. Speaker, this legislation will assist landlords in their fight against those who would use rental units inappropriately.

"This State has forfeiture laws. I think of Hawaii Revised Statutes chapter 712A. Such laws were implemented for the purposes of creating disincentives for those who would use property for unlawful purposes.

"In chapter 712A, certain criminal offenses are enumerated as grounds for forfeiture. To the extent that such offenses occur on property being leased or rented, then, the rental unit could be forfeited, unless the landlord had neither knowledge of nor consented to the illegal act. However, often a landlord, while not supporting or participating in the illegal activities, has brought to his or her attention that illegal activities are in fact occurring on the property. Yet there are very few tools which explicitly and expediently enable landlords to remove such tenants and thereby end such illegal activities.

"This bill, House Bill 1975, gives landlords more effective tools to address the situation.

"My purpose in introducing this legislation is to give the landlord a method of terminating the rental agreement. This protects landlords and effectuates the public's desire to rid Hawaii of drugs and those who manufacture such poison.

"I believe that House Bill 1975 will result in a decrease in drug-related crime. While I do not claim that it is the only answer and will solve the entire problem, no single bill can solve the entire problem, it is clearly an important and substantial step in the right direction.

"I want to thank the respective committee chairs for having heard this bill of mine.

"Again, I stand in strong support of H.B. 1975 and would urge my colleagues to wholeheartedly support this measure.

"Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the joint report of the Committees was adopted and H.B. No. 1975, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LANDLORDS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representatives Menor and Tom, for the Committees on Consumer Protection and Commerce and Judiciary, presented a joint report (Stand. Com. Rep. No. 978) recommending that H.B. No. 1549, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the joint report of the Committees was adopted and H.B. No. 1549, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LABELING," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representatives Menor and Tom, for the Committees on Consumer Protection and Commerce and Judiciary, presented a joint report (Stand. Com. Rep. No. 979) recommending that H.B. No. 1538, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the joint report of the Committees was adopted and H.B. No. 1538, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FORECLOSURES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representatives Menor and Tom, for the Committees on Consumer Protection and Commerce and Judiciary, presented a joint report (Stand. Com. Rep. No. 980) recommending that H.B. No. 777, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the joint report of the Committees was adopted and H.B. No. 777, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PLANNED COMMUNITY ASSOCIATIONS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representatives Tom and Menor, for the Committees on Judiciary and Consumer Protection and Commerce, presented a joint report (Stand. Com. Rep. No. 981) recommending that H.B. No. 1588, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the joint report of the Committees was adopted and H.B. No. 1588, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD SUPPORT ENFORCEMENT," passed Second Reading

and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Tom, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 982) recommending that H.B. No. 789, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 789, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FIREARMS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Tom, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 983) recommending that H.B. No. 179, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 179, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PORNOGRAPHY," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Tom, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 984) recommending that H.B. No. 1300, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1300, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIME," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Tom, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 985) recommending that H.B. No. 1604, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1604, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DISPOSITION OF CONVICTED DEFENDANTS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Tom, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 986) recommending that H.B. No. 2308, HD 1, as amended in HD 2, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2308, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PROBATE," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Tom, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 987) recommending that H.B. No. 2305 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2305, entitled: "A BILL FOR AN ACT RELATING TO FORGERY," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representatives Tom and Garcia, for the Committees on Judiciary and Public Safety and Military Affairs, presented a joint report (Stand. Com. Rep. No. 988) recommending that H.B. No. 1087, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the joint report of the Committees was adopted and H.B. No. 1087, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Tom, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 989) recommending that H.B. No. 396, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 396, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FIREARMS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Tom, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 990) recommending that H.B. No. 1387, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1387, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE DRIVER LICENSING," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

Representative Tom, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 991) recommending that H.B. No. 1453, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1453, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTORSPORTS INSURANCE," passed Second Reading and was placed on the calendar for Third Reading with Representatives Menor, Takamine and Takumi being excused.

THIRD READING

H.B. No. 872:

Representative Okamura moved that H.B. No. 872 pass Third Reading, seconded by Representative M. Oshiro.

Representative Ward rose and requested a conflict ruling, saying that he is a graduate of the East-West Center, and the Chair ruled "no conflict."

Representative Ward continued, saying:

"I actually wanted to ask if you could give them a little more money than what they've got and a little more help from the State -- they're hurting.

"The point is this: It's a good bill, it's a good first-time gesture that we've ever made to the East-West Center for what otherwise is probably one of the premier institutions in the world, Mr. Speaker. And I am glad that we have now discovered one of the best kept secrets in the world, and we'll be a part of that.

"Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 872, entitled: "A BILL FOR AN ACT RELATING TO THE EAST-WEST CENTER," passed Third Reading by a vote of 48 ayes, with Representatives Menor, Takamine and Takumi being excused.

H.B. No. 1659:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1659, entitled: "A BILL FOR AN ACT RELATING TO THE RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 48 ayes, with Representatives Menor, Takamine and Takumi being excused.

H.B. No. 2227:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 2227, entitled: "A BILL FOR AN ACT RELATING TO PLANNING," passed Third Reading by a vote of 48 ayes, with Representatives Menor, Takamine and Takumi being excused.

H.B. No. 1693:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1693, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII STRATEGIC DEVELOPMENT CORPORATION," passed Third Reading by a vote of 48 ayes, with Representatives Menor, Takamine and Takumi being excused.

H.B. No. 260:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 260, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 48 ayes, with Representatives Menor, Takamine and Takumi being excused.

H.B. No. 369:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 369, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 48 ayes, with Representatives Menor, Takamine and Takumi being excused.

H.B. No. 919:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 919, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII PROPERTY INSURANCE ASSOCIATION," passed Third Reading by a vote of 48 ayes, with Representatives Menor, Takamine and Takumi being excused.

H.B. No. 1330:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1330, entitled: "A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR," passed Third Reading by a vote of 48 ayes, with Representatives Menor, Takamine and Takumi being excused.

H.B. No. 1897:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1897, entitled: "A BILL FOR AN ACT RELATING TO REGULATION OF PROFESSIONAL ENGINEERS, ARCHITECTS, SURVEYORS, AND LANDSCAPE ARCHITECTS," passed Third Reading by a vote of 48 ayes, with Representatives Menor, Takamine and Takumi being excused.

H.B. No. 1902:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1902, entitled: "A BILL FOR AN ACT RELATING TO NURSING HOME ADMINISTRATORS," passed Third Reading by a vote of 48 ayes, with Representatives Menor, Takamine and Takumi being excused.

H.B. No. 1326:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1326, entitled: "A BILL FOR AN ACT RELATING TO LIQUOR," passed Third Reading by a vote of 48 ayes, with Representatives Menor, Takamine and Takumi being excused.

H.B. No. 1894:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1894, entitled: "A BILL FOR AN ACT RELATING TO THE MEMBERSHIP OF THE ELEVATOR MECHANIC LICENSING BOARD," passed Third Reading by a vote of 48 ayes, with Representatives Menor, Takamine and Takumi being excused.

H.B. No. 1539:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1539, entitled: "A BILL FOR AN ACT RELATING TO YOUTH CORRECTIONAL FACILITIES," passed Third Reading by a vote of 48 ayes, with Representatives Menor, Takamine and Takumi being excused.

H.B. No. 2134:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 2134, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY MEETINGS OF PUBLIC AGENCIES," passed Third Reading by a vote of 47 ayes to 1 no, with Representative Thielen voting no, and Representatives Menor, Takamine and Takumi being excused.

H.B. No. 1203:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1203, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL PROCEDURE," passed Third Reading by a vote of 48 ayes, with Representatives Menor, Takamine and Takumi being excused.

H.B. No. 1201:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1201, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC VIOLATIONS," passed Third Reading by a vote of 48 ayes, with Representatives Menor, Takamine and Takumi being excused.

H.B. No. 1296:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1296, entitled: "A BILL FOR AN ACT RELATING TO GARNISHMENT," passed Third Reading by a vote of 48 ayes, with Representatives Menor, Takamine and Takumi being excused.

H.B. No. 1510:

Representative Okamura moved that H.B. No. 1510 pass Third Reading, seconded by Representative M. Oshiro.

Representative Pendleton rose in support of the bill and requested that his remarks be entered into the Journal, and the Chair "so ordered."

Representative Pendleton's remarks are as follows:

"Mr. Speaker, I rise in strong support of House Bill 1510. As a co-sponsor of this measure, I am delighted to see this piece of legislation move through this body on to passage or what appears to be passage. This bill relates to domestic violence abuse protective orders.

"I have long been involved with the issue of domestic violence. My familiarity and involvement with this pressing issue began years ago, long before I entered public life. It began during my years as a youth pastor. I have seen the effects of domestic abuse. I have visited the hospitals. I have seen the black eyes, the scars, the bruises. More importantly, and perhaps most disturbingly, I have seen the psychological or emotional effects of such abuse. I have seen the self-esteem of women drop after having suffered at the hands of one who promised to 'love until death us do part.' I have seen women blame themselves for the suffering inflicted upon them by men. All too often they were abused as girls. Now the abuse continues in their adult years and they are unfortunately led to believe that they themselves are the causes of the abuse and that the men inflicting the abuse are blameless.

"House Bill 1510 by itself will not end domestic abuse; no single piece of legislation can be expected to solve this problem. But this bill is an important step in the correct direction.

"For the edification of the members, permit me, Mr. Speaker, to briefly discuss the magnitude of the problem. This will provide a background within which to understand how important it is for us to pass House Bill 1510.

"Every 12 seconds a woman is battered. Domestic violence is the leading cause of injury to women, more than automobile accidents, muggings, and rape combined. 20% of all murders in our country are domestic violence related. And nationally this results in about 4,000 women being killed by spouses or boyfriends each and every year across this country.

"Here in Hawaii, about 39% of all homicides are related to domestic violence. This is based on studies of 1993 and 1994. And not only are spouses and girlfriends the victims of domestic violence but elderly women and children are also being harmed. It has been found that the great majority of elder abuse cases involve women. And when it comes to child abuse, especially child molestation and sexual abuse, the victim is often a female, a girl. This is no doubt a serious problem. No civilized society should permit such behavior. To do nothing is to condone such abuse.

"House Bill 1510 is a right step on the road to eradication of domestic abuse. Specifically, it deletes the requirement of immediate contemporaneity, that is, 'recent' language in the present statute. Presently, this law is codified as Section 586-3 Hawaii Revised Statutes and requires that the past acts of abuse must have been 'recent' past acts. Deleting this language creates more protection for the woman in that the ambiguity inherent in the word 'recent' is eliminated altogether. The message to those who would inflict abuse on others is that the mere passage of time will not insulate abusers from accountability.

"Mr. Speaker, it is amazing what the deletion of a single word can do. In this case, the deletion of 'recent' does a great deal of good. This is why it is with great pleasure that I co-sponsored this legislation and am happy to strongly support it today. I urge all members of this distinguished body to support House Bill 1510.

"Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and H.B. No. 1510, entitled: "A BILL FOR AN ACT RELATING TO DOMESTIC ABUSE PROTECTIVE ORDERS," passed Third Reading by a vote of 48 ayes, with Representatives Menor, Takamine and Takumi being excused.

H.B. No. 1407:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1407, entitled: "A BILL FOR AN ACT RELATING TO THE CERTIFICATION OF ELECTION RESULTS," passed Third Reading by a vote of 48 ayes, with Representatives Menor, Takamine and Takumi being excused.

H.B. No. 1858:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1858, entitled: "A BILL FOR AN ACT RELATING TO LIMITED LIABILITY COMPANIES," passed Third Reading by a vote of 48 ayes, with Representatives Menor, Takamine and Takumi being excused.

H.B. No. 148:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 148, entitled: "A BILL FOR AN ACT RELATING TO TOW TRUCKS," passed Third Reading by a vote of 48 ayes, with Representatives Menor, Takamine and Takumi being excused.

H.B. No. 1891:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1891, entitled: "A BILL FOR AN ACT RELATING TO CONTRACTORS LICENSE RENEWAL," passed Third Reading by a vote of 48 ayes, with Representatives Menor, Takamine and Takumi being excused.

H.B. No. 1893:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1893, entitled: "A BILL FOR AN ACT RELATING TO PHYSICAL THERAPY BOARD APPOINTMENTS," passed Third Reading by a vote of 48 ayes, with Representatives Menor, Takamine and Takumi being excused.

H.B. No. 1867:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1867, entitled: "A BILL FOR AN ACT RELATING TO THE INSURANCE CODE," passed Third Reading by a vote of 48 ayes, with Representatives Menor, Takamine and Takumi being excused.

The Chair directed the Clerk to note that H.B. Nos. 872, 1659, 2227, 1693, 260, 369, 919, 1330, 1897, 1902, 1326, 1894, 1539, 2134, 1203, 1201, 1296, 1510, 1407, 1858, 148, 1891, 1893 and 1867 had passed Third Reading at 4:15 o'clock p.m.

At this time, the following late introductions were made to the members of the House:

Representative Okamura introduced two members from the CSG West Council of State Government "who are here to visit in preparation for the CSG National Convention which is going to be hosted by Hawaii in December": Kent Briggs, CSG West Executive Director from Denver, Colorado, and Cheryl Lee Duvachelle, CSG West Deputy Director from San Francisco. "She is part of the famous Duvachelle family from Molokai."

Representative Stegmaier introduced two constituents of his, Dan and Mely McGivern, "who are strong members of the pro-life movement."

ANNOUNCEMENTS

Representative Yamane: "This is to remind all conference members that we will be having our first conference meeting on Monday at 9:00 a.m. on House Bills 117 and 118 in Conference Room 329."

Representative Thielen: "I would just like to announce that the Minority caucus on Monday will start at 10:00 a.m. and go until concluded. The staff is providing us lunch."

Representative Jones rose and stated:

"On Monday, we will be meeting with some staff from the Land Department who had invited us to listen in on a discussion on trust lands, and they have invited people from the state of Washington and the state of Oregon who are experts on the trust land issues, and so we are planning to have a meeting in Room 423 to go over the trust land issues which relates to Section 5F of the Admission's Act, and it looks like a real interesting meeting. And we are inviting everyone here if they want

to attend. It will be at 9:00 a.m. in Room 423 on Monday."

Representative M. Oshiro made the following announcements:

"The Majority caucus will be meeting at 10:00 a.m. on Monday in Room 325. Bring your own lunch.

"Also, all bills which are decked for Third Reading will be on the members' desks by 12:00 noon tomorrow, along with the draft of the Order of the Day."

At this time, Representative M. Oshiro moved to keep the Journal open until 12:00 o'clock midnight this legislative day for the purpose of receiving Standing Committee Reports and House Bills transmitted thereby, seconded by Representative Thielen and carried.

At 4:25 o'clock p.m., the House of Representatives stood in recess for the purpose of receiving Standing Committee Reports.

STANDING COMMITTEE REPORTS

In accordance with the motion made earlier, the following Standing Committee Reports (Stand. Com. Rep. Nos. 992 through 1091) were received in the Clerk's Office up until 12:00 o'clock midnight this legislative day, and subsequent to its recessing at 4:25 o'clock p.m., the following actions were taken:

Stand. Com. Rep. No. 992 (CPC) and H.B. No. 1738, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO A COMMERCIAL MARINE DEALER LICENSE," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 993 (CPC) and H.B. No. 1244, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE ENVIRONMENT," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 994 (CPC) and H.B. No. 387, entitled: "A BILL FOR AN ACT RELATING TO NURSES," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 995 (CPC) and H.B. No. 1488, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO FAMILY CHILD CARE HOMES," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 996 (CPC) and H.B. No. 1819, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO PRESCRIPTION DRUGS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 997 (CPC/JUD) and H.B. No. 2, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR CARRIERS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 998 (CPC/JUD) and H.B. No. 1817, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRONIC PRESCRIPTIONS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 999 (CPC/JUD) and H.B. No. 879, HD 1, entitled: "A BILL FOR AN ACT RELATING

TO DEGREE GRANTING INSTITUTIONS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1000 (CPC/JUD) and H.B. No. 884, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DEGREE-GRANTING INSTITUTIONS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1001 (JUD) and H.B. No. 20, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE DRIVER LICENSING," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1002 (JUD) and H.B. No. 631, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CARE DECISIONS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1003 (JUD) and H.B. No. 19, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO PARKING STALLS FOR DISABLED PERSONS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1004 (JUD) and H.B. No. 761, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE SAFETY INSPECTIONS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1005 (JUD) and H.B. No. 371, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO JOB REFERENCE LIABILITY," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1006 (JUD) and H.B. No. 636, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1007 (JUD) and H.B. No. 1745, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO BOATING ENFORCEMENT," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1008 (JUD) and H.B. No. 233, entitled: "A BILL FOR AN ACT RELATING TO HUNTING," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1009 (JUD) and H.B. No. 22, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1010 (JUD) and H.B. No. 967, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO OCEAN RECREATION MANAGEMENT," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1011 (JUD) and H.B. No. 112, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO CRIME," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1012 (JUD) and H.B. No. 1579, as amended in HD 1, entitled: "A BILL FOR AN

ACT RELATING TO AGRICULTURE," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1013 (JUD) and H.B. No. 92, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1014 (JUD) and H.B. No. 88, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO PICKUP TRUCKS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1015 (JUD) and H.B. No. 131, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE X, SECTION 2, OF THE HAWAII CONSTITUTION, TO CHANGE THE BOARD OF EDUCATION FROM AN ELECTED BOARD TO AN APPOINTED BOARD," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1016 (JUD) and H.B. No. 1246, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO AIR POLLUTION," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1017 (JUD) and H.B. No. 1715, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO FRAUDULENT USE OF CREDIT CARDS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1018 (JUD) and H.B. No. 116, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1019 (FIN) and H.B. No. 1620, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY LAW," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1020 (FIN) and H.B. No. 1701, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE REDEVELOPMENT OF BARBERS POINT NAVAL AIR STATION," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1021 (FIN) and H.B. No. 1868, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HURRICANE RELIEF FUND," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1022 (FIN) and H.B. No. 1250, HD 2, as amended in HD 3, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL RESPONSE," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1023 (FIN) and H.B. No. 1741, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO WATER RESOURCE MANAGEMENT," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1024 (FIN) and H.B. No. 1866, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE PREMIUM TAXES," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1025 (FIN) and H.B. No. 1828, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO VITAL STATISTICS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1026 (WLU) and H.B. No. 1101, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO BED AND BREAKFAST OPERATIONS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1027 (EDN) and H.B. No. 1105, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO DENTAL HEALTH," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1028 (JUD) and H.B. No. 132, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1029 (CPC) and H.B. No. 1196, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1030 (CPC/JUD) and H.B. No. 1208, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO GASOLINE DEALERS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1031 (CPC/JUD) and H.B. No. 1451, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PETROLEUM INDUSTRY," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1032 (FIN) and H.B. No. 115, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE TEEN COURT PROGRAM," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1033 (FIN) and H.B. No. 119, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO A CONSTITUTIONAL CONVENTION," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1034 (FIN) and H.B. No. 143, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1035 (FIN) and H.B. No. 258, entitled: "A BILL FOR AN ACT RELATING TO THE CONVENTION CENTER," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1036 (FIN) and H.B. No. 665, entitled: "A BILL FOR AN ACT RELATING TO THE CONVENTION CENTER," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1037 (FIN) and H.B. No. 886, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE

EXPANSION OF THE HIGHER EDUCATION OUTREACH PROGRAM ON THE NEIGHBOR ISLANDS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1038 (FIN) and H.B. No. 1210, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO AIR POLLUTION," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1039 (FIN) and H.B. No. 1218, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO WATER QUALITY," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1040 (FIN) and H.B. No. 1463, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO ADULT RESIDENTIAL CARE HOMES," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1041 (FIN) and H.B. No. 1547, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO SMALL BOAT HARBORS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1042 (FIN) and H.B. No. 1675, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO HOISTING MACHINE OPERATORS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1043 (FIN) and H.B. No. 1721, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO ELIGIBILITY FOR PAYMENT PROGRAMS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1044 (FIN) and H.B. No. 1753, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HISTORIC PRESERVATION SPECIAL FUND," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1045 (FIN) and H.B. No. 1806, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO PENSION AND RETIREMENT SYSTEMS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1046 (FIN) and H.B. No. 1829, HD 2, as amended in HD 3, entitled: "A BILL FOR AN ACT RELATING TO FEES COLLECTED BY THE DEPARTMENT OF HEALTH," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1047 (FIN) and H.B. No. 1841, HD 2, as amended in HD 3, entitled: "A BILL FOR AN ACT RELATING TO HEALTH PLANNING," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1048 (FIN) and H.B. No. 1860, HD 2, as amended in HD 3, entitled: "A BILL FOR AN ACT RELATING TO DEGREE-GRANTING INSTITUTIONS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1049 (FIN) and H.B. No. 2202, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO CAPTIVE INSURANCE COMPANIES," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1050 (FIN) and H.B. No. 2229, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO GAMING," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1051 (FIN) and H.B. No. 2239, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO UTILITY LINES," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1052 (FIN) and H.B. No. 101, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1053 (FIN) and H.B. No. 177, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HURRICANE RELIEF FUND," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1054 (FIN) and H.B. No. 264, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS FOR THE WILCOX HEALTH SYSTEM," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1055 (FIN) and H.B. No. 650, HD 2, as amended in HD 3, entitled: "A BILL FOR AN ACT RELATING TO MENTAL HEALTH AND ALCOHOL AND DRUG ABUSE TREATMENT INSURANCE BENEFITS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1056 (FIN) and H.B. No. 817, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1057 (FIN) and H.B. No. 1699, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII CAPITAL LOAN PROGRAM," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1058 (FIN) and H.B. No. 1805, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1059 (FIN) and H.B. No. 2232, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO AIR QUALITY," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1060 (FIN) and H.B. No. 1904, HD 2, as amended in HD 3, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1061 (FIN) and H.B. No. 1433, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1062 (FIN) and H.B. No. 2082, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PLANNING AND COMMUNITY DEVELOPMENT,"

were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1063 (FIN) and H.B. No. 33, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1064 (FIN) and H.B. No. 102, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO COORDINATED CARE ORGANIZATIONS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1065 (FIN) and H.B. No. 120, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELDERLY CARE," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1066 (FIN) and H.B. No. 137, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE EAST-WEST CENTER," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1067 (FIN) and H.B. No. 167, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO TRAUMATIC BRAIN INJURY," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1068 (FIN) and H.B. No. 646, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO DEVELOPMENTAL DISABILITIES," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1069 (FIN) and H.B. No. 701, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL SECURITY ATTENDANTS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1070 (FIN) and H.B. No. 867, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1071 (FIN) and H.B. No. 1023, entitled: "A BILL FOR AN ACT RELATING TO THE SECONDARY SCHOOL STUDENTS CONFERENCE," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1072 (FIN) and H.B. No. 1329, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO ASSIST THE OPERATION OF A MOLOKAI TO MAUI BOAT SERVICE," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1073 (FIN) and H.B. No. 2008, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1074 (FIN) and H.B. No. 30, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO HURRICANE INSURANCE," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1075 (FIN) and H.B. No. 140, HD 1, as amended in HD 2, entitled: "A BILL FOR AN

ACT RELATING TO ELECTIONS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1076 (FIN) and H.B. No. 183, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO SPORTS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1077 (FIN) and H.B. No. 376, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO SEARCH AND RESCUE COSTS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1078 (FIN) and H.B. No. 651, HD 2, as amended in HD 3, entitled: "A BILL FOR AN ACT RELATING TO MENTAL HEALTH AND ALCOHOL AND DRUG ABUSE TREATMENT INSURANCE BENEFITS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1079 (FIN) and H.B. No. 667, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO TOURISM," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1080 (FIN) and H.B. No. 979, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO CIGARETTES AND TOBACCO TAX," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1081 (FIN) and H.B. No. 1086, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL WORK OPPORTUNITIES," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1082 (FIN) and H.B. No. 1838, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE ENVIRONMENT," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1083 (FIN) and H.B. No. 1901, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE INSURANCE CODE," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1084 (FIN) and H.B. No. 2065, HD 2, as amended in HD 3, entitled: "A BILL FOR AN ACT RELATING TO HAWAIIAN SOVEREIGNTY," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1085 (WLU) and H.B. No. 1746, entitled: "A BILL FOR AN ACT RELATING TO DUTIES OF THE KAHO'OLAWA ISLAND RESERVE COMMISSION," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1086 (JUD) and H.B. No. 1747, entitled: "A BILL FOR AN ACT RELATING TO THE KAHO'OLAWA ISLAND RESERVE," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1087 (JUD) and H.B. No. 1748, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO KAHO'OLAWA PENALTIES," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1088 (JUD) and H.B. No. 1713, HD 1, entitled: "A BILL FOR AN ACT

RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1089 (FIN) and H.B. No. 1036, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1090 (FIN) and H.B. No. 2207, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC LAND TRUST," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

Stand. Com. Rep. No. 1091 (JUD/FIN) and H.B. No. 1857, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAIIAN HOME LANDS TRUST INDIVIDUAL CLAIMS," were placed on the calendar for Third Reading on Tuesday, March 4, 1997.

ADJOURNMENT

At 12:00 o'clock midnight, the House of Representatives adjourned until 9:00 o'clock a.m. on Tuesday, March 4, 1997.

TWENTY-SIXTH DAY

Tuesday, March 4, 1997

The House of Representatives of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1997, convened at 9:30 o'clock a.m., with the Speaker presiding.

The invocation was delivered by Reverend Stanley Bain of the Keolumana United Methodist Church, after which the Roll was called showing all members present.

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

At this time, the following introductions were made to the members of the House:

Representative Kahikina introduced a group of fifth grade students from Nanaikapono Elementary School. They were accompanied by their teachers, Miss Peralta, Mrs. Prather, Mrs. Mahi, Mrs. Sugihara and Mrs. Evans; and chaperones, Mr. Sholtis, Mrs. Sula, Mrs. Laa, Mrs. Sabagala, Mrs. Sato and Mrs. Matsumura.

Representative Jones then rose and wished Natasha Wain, a student in the group who is celebrating her 11th birthday, a "Happy Birthday."

Representative Thielen introduced Betty Tatum, who was seated in the audience.

At 9:38 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 9:57 o'clock a.m.

ORDER OF THE DAY

SUSPENSION OF RULES

On motion by Representative M. Oshiro, seconded by Representative Thielen and carried, the rules were suspended for the purpose of considering bills on Third Reading on the basis of a modified consent calendar, with Representatives Cachola, Morihara, White and Yoshinaga being excused.

UNFINISHED BUSINESS

Stand. Com. Rep. No. 686 and H.B. No. 480, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 480, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE," passed Third Reading by a vote of 47 ayes, with Representatives Cachola, Morihara, White and Yoshinaga being excused.

Stand. Com. Rep. No. 687 and H.B. No. 1658, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1658, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DRIVERS EDUCATION PROGRAM," passed Third Reading by a vote of 47 ayes, with Representatives Cachola, Morihara, White and Yoshinaga being excused.

Stand. Com. Rep. No. 688 and H.B. No. 1724, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1724, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL ASSISTANCE," passed Third Reading by a vote of 47 ayes, with Representatives Cachola, Morihara, White and Yoshinaga being excused.

Stand. Com. Rep. No. 689 and H.B. No. 1619, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1619, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE CREATION OF TRUSTS FOR THE DEFERRED COMPENSATION PLANS," passed Third Reading by a vote of 47 ayes, with Representatives Cachola, Morihara, White and Yoshinaga being excused.

Stand. Com. Rep. No. 690 and H.B. No. 819, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 819, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE OCEAN FLOATING ALL-NATURAL CLEAN ENERGY POWER STATION," passed Third Reading by a vote of 47 ayes, with Representatives Cachola, Morihara, White and Yoshinaga being excused.

Stand. Com. Rep. No. 691 and H.B. No. 294, HD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 294, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Ito rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Ito's remarks are as follows:

"Mr. Speaker, I support this measure. I believe that teachers must be empowered with the latest information and methods so that they can effectively teach in the classrooms.

"This bill will fund the Center for Teacher Education at the University of Hawaii. The Center develops school partnerships for the purpose of preparing educators, professional development of in-service teachers and school renewal.

"I urge all my colleagues to support this measure to demonstrate our commitment to improving Hawaii's educational system."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 294, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 47 ayes, with Representatives Cachola, Morihara, White and Yoshinaga being excused.

Stand. Com. Rep. No. 692 and H.B. No. 2238, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2238, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Case rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Case's remarks are as follows:

"Mr. Speaker, I rise in support of HB 2238, HD 2, which proposes to encourage citizen contributions to the acquisition or expansion of state parks.

"Mr. Speaker, this is a little germ of an idea which I hope will grow into something. It rests on three premises.

"The first is that our need for state parks and recreational areas is increasing rapidly as our population grows. The second is that state government, while it has the power to acquire park lands by eminent domain, does not always have sufficient funds. The third is that individual citizens might be willing to make contributions toward the acquisition and maintenance of state parks if they were assured that their contributions would be allocated solely toward that purpose.

"This bill proposes to establish within the Department of Land and Natural Resources an 'acquire a park' program together with a park acquisition trust fund. DLNR would periodically publicize a description of potential state parks proposed for acquisition.

"Private contributions could then be made into the trust fund contingent on their allocation to acquisition or maintenance of a specific park. (Under existing federal law, these contributions would be tax-deductible.) If, and only if, those contributions were not allocated to acquisition or maintenance of the specific designated park within five years of contribution, they could then be utilized solely with respect to another park in the same county.

"Mr. Speaker, it is easy to envision the use of this process for a particular individual or community organization to support the creation or maintenance of a small local state park. With a little more imagination, we could also see a broad-based citizen movement to raise private monies to acquire and incorporate into our state park system larger and vital potential park areas such as Ka Iwi.

"Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2238, HD 2, entitled: "A BILL FOR AN ACT RELATING TO STATE PARKS," passed Third Reading by a vote of 47 ayes, with Representatives Cachola, Morihara, White and Yoshinaga being excused.

Stand. Com. Rep. No. 693 and H.B. No. 2222, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2222, HD 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO MATCH FEDERAL FUNDS FOR ESTABLISHMENT OF MANUFACTURING EXTENSION PROGRAMS," passed Third Reading by a vote of 47 ayes, with Representatives Cachola, Morihara, White and Yoshinaga being excused.

Stand. Com. Rep. No. 694 and H.B. No. 1906, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1906, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND," passed Third

Reading by a vote of 47 ayes, with Representatives Cachola, Morihara, White and Yoshinaga being excused.

Stand. Com. Rep. No. 695 and H.B. No. 1896, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1896, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPOSIT OF PROFESSIONAL AND VOCATIONAL LICENSE FEES," passed Third Reading by a vote of 47 ayes, with Representatives Cachola, Morihara, White and Yoshinaga being excused.

The Chair directed the Clerk to note that H.B. Nos. 480, 1658, 1724, 1619, 819, 294, 2238, 2222, 1906 and 1896 had passed Third Reading at 10:00 o'clock a.m.

Stand. Com. Rep. No. 696 and H.B. No. 1869, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1869, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE," passed Third Reading by a vote of 48 ayes, with Representatives Cachola, Morihara and White being excused.

Stand. Com. Rep. No. 697 and H.B. No. 1837, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1837, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE ENVIRONMENT," passed Third Reading by a vote of 48 ayes, with Representatives Cachola, Morihara and White being excused.

Stand. Com. Rep. No. 698 and H.B. No. 1815, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1815, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 48 ayes, with Representatives Cachola, Morihara and White being excused.

Stand. Com. Rep. No. 699 and H.B. No. 1755, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1755, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Kanoho rose and asked the Clerk to cast an aye vote with reservations for him, and the Chair "so ordered."

Representative Goodenow then rose and asked the Clerk to cast an aye vote with reservations for him, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1755, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Third Reading by a vote of 46 ayes to 2 noes, with Representatives Morita and Thielen voting no, and Representatives Cachola, Morihara and White being excused.

Stand. Com. Rep. No. 700 and H.B. No. 1731, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1731, HD 1, entitled: "A BILL FOR AN ACT RELATING TO

HAWAII STATE PUBLIC LIBRARY SYSTEM," passed Third Reading by a vote of 48 ayes, with Representatives Cachola, Morihara and White being excused.

Stand. Com. Rep. No. 701 and H.B. No. 1709, HD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1709, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Ito submitted the following comments to be inserted into the Journal.

"I rise to speak for this measure. This bill will allow the Hawaii Teacher Standards Board through the DOE to collect licensing or credentialing fees by **mandatory payroll deductions**.

"This method of payroll deduction will eliminate any problems that may arise in collecting fees manually. The funds will provide for the operations of the Board. Also, the payroll deduction provides a way to project a consistent revenue base which will be helpful in planning and budgeting."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1709, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TEACHER STANDARDS BOARD," passed Third Reading by a vote of 48 ayes, with Representatives Cachola, Morihara and White being excused.

Stand. Com. Rep. No. 702 and H.B. No. 1610, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1610, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INDEMNIFICATION OF THE UNITED STATES," passed Third Reading by a vote of 48 ayes, with Representatives Cachola, Morihara and White being excused.

The Chair directed the Clerk to note that H.B. Nos. 1869, 1837, 1815, 1755, 1731, 1709 and 1610 had passed Third Reading at 10:01 o'clock a.m.

Stand. Com. Rep. No. 703 and H.B. No. 1585, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1585, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL HISTORY RECORD INFORMATION," passed Third Reading by a vote of 50 ayes, with Representative White being excused.

Stand. Com. Rep. No. 704 and H.B. No. 1498, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1498, HD 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE BLUE WATER MARINE LABORATORY," passed Third Reading by a vote of 50 ayes, with Representative White being excused.

Stand. Com. Rep. No. 705 and H.B. No. 417, HD 3:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 417, HD 3, entitled: "A BILL FOR AN ACT RELATING TO THE STATEWIDE TRAIL AND ACCESS PROGRAM," passed

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

Stand. Com. Rep. No. 706 and H.B. No. 4, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 4, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LICENSE PLATES," passed Third Reading by a vote of 50 ayes, with Representative White being excused.

Stand. Com. Rep. No. 707 and H.B. No. 1840, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1840, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AN EMERGENCY APPROPRIATION FOR THE HAWAII HEALTH SYSTEMS CORPORATION," passed Third Reading by a vote of 50 ayes, with Representative White being excused.

Stand. Com. Rep. No. 708 and H.B. No. 1801, HD 1:

By unanimous consent, action was deferred to the end of the calendar.

Stand. Com. Rep. No. 709 and H.B. No. 1730, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1730, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII STATE PUBLIC LIBRARY SYSTEM," passed Third Reading by a vote of 50 ayes, with Representative White being excused.

The Chair directed the Clerk to note that H.B. Nos. 1585, 1498, 417, 4, 1840 and 1730 had passed Third Reading at 10:02 o'clock a.m.

Stand. Com. Rep. No. 710 and H.B. No. 146, HD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 146, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Ward rose and stated:

"I rise in support of H.B. 146, the Office of the Legislative Analyst.

"Mr. Speaker, I'm proud that this bill has reached the floor again this year, to establish the Office of the Legislative Analyst. The Legislative Analyst would be our watchdog, the same way that the Legislative Auditor, Marion Higa, is our watchdog for the departments of the Executive, except this is our watchdog for our fiscal conditions.

"The complexities of a legislative decision-making body such as ours requires lawmakers to be provided with correct and accurate fiscal data and analysis. Interestingly, the Legislative Analyst's Office was statutorily created seven years ago, but due to lack of funding, it was not activated.

"However, Mr. Speaker, now is the time that we need to put the juice into the battery and activate this office. We are short of money now, and we need to know on our own, not from Mr. Anzai, what is the state of our fiscal treasury.

"Interestingly, Hawaii is the only state in the union that uses temporary staff without having its own. This

temporary staff, borrowed from the Executive agencies, to tell us who are constitutionally amended to control the purse-strings of the State of Hawaii. This is in reverse and not logical. This bill would make us independent of the Executive and give us our own number crunchers to give us sound fiscal planning.

"This body is at a major disadvantage without having its own number cruncher. In fact, Mr. Speaker, we could have used a legislative analyst in this session because the Governor has proposed the one billion dollar CIP budget of which we did not have an analysis that says this is good, bad, or otherwise to say that there's a better way of putting CIP and other money in to work for us. Instead, we only have the able-bodied Representative Nakasone, but Representative Nakasone is not a legislative analyst.

"In summary, Mr. Speaker, passing this bill will save us money, the same way a small businessman who keeps his own books can save money when he finally hires a CPA and gets the job done quickly and professionally."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 146, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE OFFICE OF THE LEGISLATIVE ANALYST," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 711 and H.B. No. 397, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 397, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE REGISTRATION," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 712 and H.B. No. 546, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 546, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC DEVELOPMENT," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 713 and H.B. No. 822, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 822, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Moses rose and stated:

"I also rise in support of the PCNC Bill."

Representative Ito submitted the following comments for insertion into the Journal:

"Mr. Speaker, we have before us another chance at making our education system better. This bill will fund the PCNC's R.E.A.L. program which has been providing opportunities for parents and community to take active roles in education.

"Current research has shown that parental involvement has positive impact on student achievement. The PCNC program encourages a healthy relationship between the home, community, and school. This bill is a win-win situation for everyone."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 822, HD 2, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS RELATING TO THE

PARENT-COMMUNITY NETWORKING CENTERS AND THE FAMILIES FOR R.E.A.L. PROGRAM," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 714 and H.B. No. 1571, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1571, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH TOURISM," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 715 and H.B. No. 1577, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1577, HD 2, entitled: "A BILL FOR AN ACT RELATING TO IRRIGATION WATER PROJECTS," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 716 and H.B. No. 1587, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1587, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF CERTIFICATES OF IDENTIFICATION," passed Third Reading by a vote of 51 ayes.

The Chair directed the Clerk to note that H.B. Nos. 146, 397, 546, 822, 1571, 1577 and 1587 had passed Third Reading at 10:06 o'clock a.m.

Stand. Com. Rep. No. 717 and H.B. No. 1625, HD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1625, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Ito submitted the following comments to be inserted into the Journal:

"I rise to speak in support of this measure. In the past several years, we have seen government agencies and departments streamline their services and operations as they faced uncertain financial futures. Today, we still must do more with less.

"I would like to offer my support of this bill. This measure would be good for the State since it will consolidate five advisory agencies into a single council. By doing this, resources and programs will be streamlined."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1625, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONSOLIDATING EMPLOYMENT AND TRAINING ADVISORY BODIES INTO A WORKFORCE DEVELOPMENT COUNCIL," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 718 and H.B. No. 1638, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1638, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONAL INDUSTRIES," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 719 and H.B. No. 1649, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1649, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PERJURY," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 720 and H.B. No. 1655, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1655, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 721 and H.B. No. 1657, HD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1657, H.D. 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Ito submitted the following comments to be inserted into the Journal:

"The old mission statement written in 1931 was very narrow in its vision. This bill has broadened the goals of the College of Education to include training teachers, administrators, and counselors; perform research; and provide service to educational communities. The old mission statement has been incorporated into the proposed one. I urge my colleagues to support this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1657, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 722 and H.B. No. 1660, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1660, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 723 and H.B. No. 1749, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1749, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE REVIEW OF PROPOSED GOVERNMENT PROJECTS," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 724 and H.B. No. 1750, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1750, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Third Reading by a vote of 51 ayes.

The Chair directed the Clerk to note that H.B. Nos. 1625, 1638, 1649, 1655, 1657, 1660, 1749 and 1750 had passed Third Reading at 10:06 o'clock a.m.

Stand. Com. Rep. No. 725 and H.B. No. 1814, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1814, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Third

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

Stand. Com. Rep. No. 726 and H.B. No. 1839, HD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1839, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Stegmaier rose and stated:

"On House Bill No. 1839, House Draft 1, which is an emergency appropriation for the Department of Health's Child and Adolescent Mental Health Division, I'd like to speak in support but with reservations.

"Ever since the Felix vs. Waihee consent decree, the Legislature has had to deal with additional appropriations for child and adolescent mental health, and certainly a lot of those appropriations are necessary.

"The problem is that in our eagerness to provide for the consent decree, I don't believe that the time has been spent to develop a different approach for how those monies will be used. Clearly under the consent decree, that is a requirement.

"That, in addition to putting in more monies into child and adolescent mental health, that we use those monies differently. That they be family-based, that they be school-based, community-based. That they not allow for a continuation of the old approach, which is a one-on-one professional with the person in need of services, but that a different kind of support mechanism be created so that not only will these monies be more effectively spent, but more efficiently spent.

"My problem with this bill is that we're just throwing money at the problem still. We're still not saying specifically how those monies, the nine point however many millions in emergency appropriations, are going to be utilized.

"I hope that by the time the session ends, that we can, as a Legislature, establish some sort of a requirement for the specific utilization of those funds, and make certain that the Child and Adolescent Mental Health Division move in a different direction from the past.

"For these reasons, I rise to support this measure but with reservations.

"Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1839, HD 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR THE DEPARTMENT OF HEALTH, CHILD AND ADOLESCENT MENTAL HEALTH DIVISION," passed Third Reading by a vote of 50 ayes, with Representative Yonamine being excused.

Stand. Com. Rep. No. 727 and H.B. No. 1863, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1863, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CONSUMER AND BUSINESS EDUCATION," passed Third Reading by a vote of 50 ayes, with Representative Yonamine being excused.

Stand. Com. Rep. No. 728 and H.B. No. 1986, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1986, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Abinsay rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Abinsay's remarks are as follows:

"House Bill 1986, HD 2, is to provide funds to develop bilingual citizenship classes to educate and prepare eligible legal immigrants for naturalization. As a result of the Welfare Reform Act of 1996, many legal immigrants who are recipients of SSI benefits are bound to lose their benefits.

"The sad thing about this, Mr. Speaker, is that the elderly legal immigrants are the ones who are directly affected, losing their SSI benefits. There is a critical need for bilingual citizenship classes to assist immigrants who are willing to be trained for naturalization, especially, the elderly immigrants with limited language proficiency in passing the naturalization examination. Mr. Speaker, as naturalized U.S. citizens they will be able to qualify for SSI benefits, thereby, saving state funds that could be used for other human needs.

"For this reason, Mr. Speaker, I am asking for your support and the support of this honorable body to vote yes on this bill.

"Thank you."

Representative Pendleton rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Pendleton's remarks are as follows:

"Mr. Speaker, this bill relates to bilingual citizenship classes.

"Mr. Speaker, the purpose of this bill is to help legal immigrants as they seek to be naturalized. This bill will develop bilingual citizenship classes, conduct bilingual outreach education programs, and prepare eligible legal immigrants for the naturalization program.

"Mr. Speaker, half of my family has immigrated from the Philippines. The other half, if you trace it back far enough, came from Europe. My wife is a naturalized citizen.

"I believe that this legislation will do much to help the Filipino community. It will also help other ethnic groups. We are talking about very patriotic people, people who perhaps served in this country's armed services. But some of them have language difficulties. This legislation will ensure that language will not be a barrier to those who seek to become citizens of this country.

"Mr. Speaker, with respect to more recent arrivals, it is all the more clear that such immigrants will benefit from the program. More recent arrivals have had a shorter period of time to learn our language and so will require the help of bilingual classes.

"Finally, Mr. Speaker, facilitating citizenship of long-time residents will help those who have come here but through no fault of their own have fallen on hard economic times. I will not go into the details of the federal welfare reform legislation, but suffice it to say that as citizens they will have substantial benefits and protections that they do not now presently enjoy as legal immigrants.

"For the foregoing reasons, I am happy to vote for House Bill 1986 relating to Bilingual Citizenship Classes and urge my distinguished colleagues to lend their support.

"Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1986, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CITIZENSHIP," passed Third Reading by a vote of 50 ayes, with Representative Yonamine being excused.

Stand. Com. Rep. No. 729 and H.B. No. 2016, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2016, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE ESTABLISHMENT OF THE UNIVERSITY OF HAWAII-HILO THEATRE REVOLVING FUND," passed Third Reading by a vote of 50 ayes, with Representative Yonamine being excused.

Stand. Com. Rep. No. 730 and H.B. No. 2032, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2032, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Ito submitted the following comments to be inserted into the Journal:

"Mr. Speaker, this measure works in conjunction with the School-to-Work Opportunities Act enacted by Congress in 1994. As a result of that Act, Hawaii is expected to receive \$10.2 million for 5 years, to build a STW system. This bill would establish, on a pilot basis, the mechanism and management to carry out the initiative.

"I'm in support of this measure since it involves reforming education and stimulating economic development.

"Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2032, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL-TO-WORK OPPORTUNITIES," passed Third Reading by a vote of 50 ayes, with Representative Yonamine being excused.

Stand. Com. Rep. No. 731 and H.B. No. 108, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 108, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Thielen rose and stated:

"I'm rising to speak in support of House Bill 108, House Draft 2, the Sex Offender Registration bill.

"I'm very glad to see that we're taking steps to insure that our constituents are fully informed when dangerous felons are released into their neighborhoods. The newspapers have carried several stories about pedophiles and sex offenders in the Windward Community. Our communities have a right to know when these offenders are settled among them.

"I also introduced a similar bill, and appreciate that the Chair of Judiciary included the provisions for DNA

testing from my bill in the Legislation that we have before us. I really appreciate this, I think it strengthens the bill, and it had strong support from the law enforcement community.

"Thank you, Mr. Speaker."

Representative Pendleton then rose and stated:

"I rise in strong support of the same measure. Constituents of mine, in my own district, have experienced problems with those released, who have been convicted of sex offenses. So we are very grateful that this bill is moving on to passage. And I ask that the Clerk insert the balance of my remarks into the Journal."

The Chair "so ordered."

Representative Pendleton's remarks are as follows:

"Mr. Speaker, I am pleased that this piece of important legislation is moving forward and on to passage. The people in my district, and throughout the entire State, have pleaded with us to pass such legislation.

"In Kailua, there was an incident where a young student was nearly accosted by an apparent sex offender, such would have been a terrible tragedy. Now with this statute we can force those who have committed sex offenses to notify the community of their presence. This will enable citizens to take the appropriate precautions.

"Mr. Speaker, H.B. 108 is basically our State's version of the federal sex offender registration statute, commonly referred to as Megan's Law. Megan's Law was signed into federal law on May 12, 1996 by President Clinton. It is named after a beautiful, innocent, little 7-year-old girl named Megan Kanka of New Jersey. She was killed by a convicted sex offender who, unknown to the Kanka family, lived across the street from their home.

"Had there been a Megan's Law at the time, it is very possible that the family would have been aware of the danger lurking there across the street. They could have taken appropriate and reasonable steps to ensure the safety of their daughter.

"Mr. Speaker, I have a daughter. I feel for the family. I would like the ability to acquire information such as this. Thus equipped with the relevant information, I will be able to more effectively guarantee the well-being of my children.

"Mr. Speaker, I, as a legislator, am not unaware of the rights of those who have served their debt to society. Yet having heard the testimony of the Department of Public Safety; the Office of Information Practices; and the Department of the Attorney General, I find that we have a serious problem here and that the State has a compelling reason to provide such information to the public.

"When one looks at the risk to society and the minimal inconvenience to the offender, it is clear that requiring the very basic information enumerated in this statute is a fair and equitable step. It is undoubtedly constitutional under both Hawaii's and the Nation's constitutions.

"When, and if, judges ever have to look at the record, I hope it is absolutely clear to them that we have heard the evidence, weighed same, and found that the State must do this in order to save lives.

"Before I conclude, Mr. Speaker, permit me to simply point out that this bill authorizes the State to avail itself of the new DNA technology. I am proud to see us using the knowledge we have to save lives. It is my prayer that

this bill will indeed accomplish what we as legislators hope and intend for it to accomplish.

"In conclusion, Mr. Speaker, I am voting in support of House Bill 108 and urge my distinguished colleagues to lend it their support."

Representative Tom rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Tom's remarks are as follows:

"Mr. Speaker, with this measure the House of Representatives makes its commitment to the parents of Hawaii to give them access to information about those individuals who may prey upon their children. This all came about because a little girl named Megan was brutally raped and murdered. This all came about because the people are demanding their right and their children's right to be safe.

"The citizens and parents of this state who faithfully obey the law, work conscientiously, and try to be good neighbors are entitled to these basic rights. They have the right to raise a child in safety and in love. They have the right to be informed about those who may injure their children. They have the right to be informed of the release of those who have had a history of violent sexual assault. The rights of convicted criminals are far outweighed by the rights of parents to protect their children, and by the right of women to protect themselves from sexual assault.

"The measure before us puts these rights of our citizens and parents into law. The bill requires that those who have been convicted of a sexually violent offense, or crimes against a minor to register with the police upon their release from incarceration. But more importantly, it requires that the information must be shared with the public. It requires the Attorney General to post on the Internet the name of the sex offender as well as the street name and zip code where the sex offender is living. It also requires that blood and saliva samples be obtained from these offenders prior to their release from prison so that we will have the DNA evidence necessary should they ever commit another sex crime.

"This bill also requires a continual updating of information about the whereabouts of released offenders and penalties for failure to provide the necessary information.

"This bill is part of our continuing effort to enlist the community as a partner in the fight against crime. It is part of our continuing effort to restore basic rights to the citizens and parents of the State of Hawaii. I am proud to recommend, on behalf of the Judiciary Committee, that this bill pass Third Reading."

Representative Kawanakoa rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Kawanakoa's remarks are as follows:

"We require that the label on a bag of potato chips list the amount of fat, cholesterol, and sodium. We reason, people need this information to make the right dietary choice. Yet we have deprived our citizens of information about sex offenders living right next door. This bill would give individuals information to make right decisions concerning where they live, and how careful they have to be with their children. I urge passage of this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 108, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CRIME," passed Third Reading by a vote of 50 ayes, with Representative Yonamine being excused.

The Chair directed the Clerk to note that H.B. Nos. 1814, 1839, 1863, 1986, 2016, 2032 and 108 had passed Third Reading at 10:13 o'clock a.m.

Stand. Com. Rep. No. 732 and H.B. No. 122, HD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 122, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Arakaki rose and stated:

"At the top of the page, Standing Committee Report No. 732, House Bill 122, House Draft 1, I'd like to speak in favor of it.

"Just real briefly, Mr. Speaker, as a Representative for the Legislature on the Early Intervention Council, I want to thank you, Mr. Speaker, and the leadership for including this measure into our House Majority package.

"I also want to thank all the members for supporting this, and recognizing the vision and the investment that this bill will create. Not only to bring in more federal funds, but to provide a brighter future for children zero-three with disabilities.

"So I want to thank everyone for supporting this measure. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 122, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EARLY INTERVENTION," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 733 and H.B. No. 351, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 351, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC DEVELOPMENT," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 734 and H.B. No. 503, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 503, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Kawanakoa rose and stated:

"I rise in support of Stand. Comm. 734, House Bill 503. I'd like to just note a few reservations.

"This bill allows State agencies to purchase goods and services from sources other than the Correctional Industries program. I believe my colleagues understand that, and know from my past remarks, that I'm a strong advocate for the Correctional Industries program that is currently in place in our Correctional Institutions.

"My concern is with regard to the continued use of these services, from within our prisons, by our State agencies. However, I'm even a greater supporter of competition in government, and I don't believe a State agency should have to purchase their goods or their printing or other merchandise from the Correctional

Industries program. So in that matter, I will be supporting the bill.

"I just hope that the departments will continue to use the cheapest and the best quality products and services that can be found throughout the market. Not only at Correctional Industries but perhaps the private sector."

Representative Ito submitted the following comments to be inserted into the Journal:

"Support of this bill means support of small businesses in Hawaii. Currently, the printing industry in Hawaii has no stake in any government-bulk printing contracts because the Correctional Industries Program has exclusive rights to serve state agencies.

"However, the State's monopoly of the industry is costing private printing shops their businesses and their jobs. The Act would go into effect in 1999 after the program's equipment lease expires. The Correctional Industries must then compete like everyone else.

"If we are to let small businesses survive in Hawaii, we must support legislation that allows them to thrive.

"Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 503, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONAL INDUSTRIES," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 735 and H.B. No. 1370, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1370, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC FOREST RESERVES," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Thielen voting no.

Stand. Com. Rep. No. 736 and H.B. No. 1656, HD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1656, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Moses rose in support of the bill, stating:

"This bill calls for deleting the statutory requirement for the UH to set aside tuition revenues for scholarships under the Hawaii Opportunities and Education Program or HOPE. Now in the bill, it says that under existing authority, the University Board of Regents can do this without the legislation, through tuition waivers. They can have the same effect, which I agree.

"What I'm concerned about is that they won't do that. So while the committee report says that the University would no longer be required to set aside the monies, but they did verbally testify that the intent of HOPE would be continued through provisions of tuition waivers to qualifying students, I'd like to go on record now as urging them to do so.

"Thank you, Mr. Speaker."

Representative Pendleton rose in support of the measure with reservations and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Pendleton's remarks are as follows:

"Note that this bill is an amendment of Act 161 of 1995. For the most part it is a housecleaning measure designed to continue to support the Board of Regents authority to manage tuition revenues. I have no problem with this.

"Mr. Speaker, I do not believe that we as legislators should micromanage educational institutions. So I concur with the intent of this bill. I am a former university administrator. For a single year, I served at La Sierra University as Associate Dean of Students. I learned about the limitations of educators, and about the greater limitations of politicians to shape, direct, and manage educational institutions.

"My reservations, then, have nothing whatsoever to do with granting authority to the Board to direct tuition decisions. My reservations have to do with the repeal of tuition waivers. Repealing the waivers gives the Board the authority to keep such waivers in place or to eliminate same. I speak, then, to create a record. I have spoken with members of the relevant committee, namely, Higher Education, and it is my understanding that the specific provision granting Hawaiians, whether residents or not, special tuition waivers will continue as policy, repeal of the statutory provision notwithstanding.

"This continuance of the waiver for Hawaiians was indicated by representatives of UH. Let my words serve as part of the record to ensure that the assurances given by UH will not be forgotten.

"HB 1656 is a good bill. My reservations regarding what it does to the provision of Section 8 of Act 161 of 1995 have been set forth.

"I will vote for the bill, given the assurances. We want to provide incentives for Hawaiians to return to Hawaii to study. They enrich the student body. And I will urge the Legislature to revisit this statute if we find in the future that UH has not lived up to the assurances made regarding this waiver in HRS 304-4."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1656, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 737 and H.B. No. 1664, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1664, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE WESTERN GOVERNORS UNIVERSITY," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 738 and H.B. No. 1695, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1695, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ENERGY PERFORMANCE CONTRACTING FOR PUBLIC FACILITIES," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 739 and H.B. No. 1706, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1706, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Marumoto rose and stated:

"I would like to express my reservations on House Bill 1706, House Draft 2, which relates to employment and training fund assessments.

"I will be voting for the measure but my reservations stem from the fact that this is a moratorium on this tax, and I think I would have preferred to see the entire tax sunsetted. But we will be watching what happens to this fund, which exceeds eight million dollars at this time, to see the work that emanates from it."

Representative Stegmaier then rose and stated:

"This particular bill provides businesses with tax relief.

The Chair interrupted and asked:

"You're speaking for it, of course?"

Representative Stegmaier answered:

"Yes I am. When this measure first came before the Legislature, I voted against it at that time. My reason was that I felt that there was another approach, which is training people within the specific businesses or work places that they would eventually be employed. And that the support should have been for employers to be able to do on-the-job training rather than taking from businesses to train employees outside of the businesses.

"That seemed to be an ineffective way, and it seems that by this bill we are moving in the direction of perhaps eventually eliminating this employment and training fund and focusing in on the more effective on-the-job training. For this reason, I support this measure, and it is a business measure.

"Thank you."

Representative Fox then rose and stated:

"I rise to express my support with reservations on the same measure.

"Again, as Representative Marumoto said, we have passed an opportunity to eliminate the training fund assessment, having only a moratorium, so I support the bill with reservations."

Representative Herkes then rose in support of the bill, stating:

"The 18 month moratorium, I would have preferred 24 months or sunsetted in its entirety, but I want the members to note that Chairman Say and I have drafted a resolution for an audit of the ETF and its effectiveness. When we get that audit, it will certainly give us the information we need to see whether or not we continue this fund or sunset it."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1706, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYMENT AND TRAINING FUND," passed Third Reading by a vote of 51 ayes.

The Chair directed the Clerk to note that H.B. Nos. 122, 351, 503, 1370, 1656, 1664, 1695 and 1706 had passed Third Reading at 10:21 o'clock a.m.

Stand. Com. Rep. No. 740 and H.B. No. 1712, HD 1:

By unanimous consent, action was deferred to the end of the calendar.

Stand. Com. Rep. No. 741 and H.B. No. 1732, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1732, HD 2, entitled: "A BILL FOR AN ACT RELATING TO RECORDATION," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 742 and H.B. No. 1752, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1752, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 743 and H.B. No. 1843, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1843, HD 2, entitled: "A BILL FOR AN ACT RELATING TO WATER POLLUTION CONTROL," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 744 and H.B. No. 1878, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1878, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ACCOUNTANCY," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 745 and H.B. No. 1388, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1388, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC INFRACTIONS," passed Third Reading by a vote of 50 ayes to 1 no, with Representative McDermott voting no.

Stand. Com. Rep. No. 746 and H.B. No. 1582, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1582, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE RELIEF OF CERTAIN PERSONS' CLAIMS AGAINST THE STATE AND PROVIDING APPROPRIATIONS THEREFOR," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 747 and H.B. No. 1654, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1654, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SUPERVISION OF ACCOUNTS," passed Third Reading by a vote of 51 ayes.

The Chair directed the Clerk to note that H.B. Nos. 1732, 1752, 1843, 1878, 1388, 1582 and 1654 had passed Third Reading at 10:22 o'clock a.m.

Stand. Com. Rep. No. 748 and H.B. No. 1836, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1836, HD 2,

entitled: "A BILL FOR AN ACT RELATING TO DRINKING WATER," passed Third Reading by a vote of 50 ayes, with Representative Takamine being excused.

Stand. Com. Rep. No. 749 and H.B. No. 1895, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1895, HD 2, entitled: "A BILL FOR AN ACT RELATING TO APPOINTMENT OF ADVISORY COMMITTEES FOR REGULATORY PROGRAMS," passed Third Reading by a vote of 50 ayes, with Representative Takamine being excused.

Stand. Com. Rep. No. 750 and H.B. No. 1842, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1842, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE COMMUNITY RESIDENTIAL TREATMENT SYSTEM," passed Third Reading by a vote of 50 ayes, with Representative Takamine being excused.

Stand. Com. Rep. No. 751 and H.B. No. 1886, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1886, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DENTAL HYGIENISTS," passed Third Reading by a vote of 49 ayes to 1 no, with Representative McDermott voting no, and Representative Takamine being excused.

Stand. Com. Rep. No. 752 and H.B. No. 1, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR CARRIER SAFETY LAW," passed Third Reading by a vote of 50 ayes, with Representative Takamine being excused.

Stand. Com. Rep. No. 753 and H.B. No. 581, HD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 581, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Thielen rose and stated:

"I'm rising to speak in favor of House Bill 581, Recreational Activity Liability.

"I'm going to vote for the bill, but I have very serious reservations about this measure. Among other things, this bill provides immunity for operators of inherently dangerous recreational activities if the operators obtain a written waiver of liability from the participant.

"I question, first of all, whether bicycle touring is inherently dangerous. I recognize on Maui, on certain stretches of the hillside, it may be, but in other areas, I don't think it necessarily qualifies.

"My next concern is that the immunity would remove the incentive for those owners and operators to be careful, and to practice good safety habits in operating and maintaining their equipment, training their staff, and otherwise keeping their operation safe.

"Then additionally, I didn't find a provision that would exempt minors from the waiver provisions. A minor who signs the waiver may not fully understand the

consequences of signing such a waiver. And while a minor's signature may not ultimately be upheld in a court proceeding, it still would give the indication that the minor had waived her or his rights.

"So I think there are things in this bill that should be looked at by the Senate, and I hope that the draft that comes back to us will address some of these concerns.

"Thank you."

Representative Herkes then rose and stated:

"I rise in support of this measure, and I note that in both hearings, both in the Economic Development Committee and in CPC, there was no testimony in opposition to this bill.

"I would also note that there were as many deaths on bicycles as there were in pick-up trucks in 1996."

Representative Pendleton then rose and stated:

"On the same measure, I rise in support but with certain reservations.

"My primary concern is similar with Representative Thielen's with respect to minors. I'm concerned that individuals who are too young to really understand the full implications of what they might be signing, that they might be placed in a disadvantageous situation. And I ask that the Clerk insert the balance of my remarks into the Journal," and the Chair "so ordered."

Representative Pendleton's remarks are as follows:

"Mr. Speaker, this bill will define the liability of providers of recreational activities, such as scuba or skin diving, sky diving, bicycle tours, and mountain climbing.

"More specifically, Mr. Speaker, this bill limits the liability of recreational activity providers. The rationale is to somehow prevent the ever increasing costs of insurance. I am not opposed to minimizing the costs of insurance. We are presently in an economic recession. I am pro-business. And so I am eager to lend a hand to the small business owners.

"Nevertheless, let me set forth a few concerns with the way this statute goes about minimizing insurance premium costs for our recreational activity providers. I am referring to subsection (b) of the bill.

"Perhaps I should first discuss subsection (a). This section says that providers must exercise reasonable care. This is good, as it exhorts us to being reasonable and requires us to be accountable for our deeds. However, subsection (b) seems to undermine this exhortation to reasonable behavior, at least to the extent or insofar as a signed written release provides immunity to providers.

"The specific language of subsection (b) states that providers 'shall not be liable for damages ... resulting from inherent risks associated with the recreational activity ... if the patron participating ... voluntarily signs a written release'

"The challenge facing us here is that what an 'inherent risk' is might not be obvious. We are just asking for more case law, and all of the attendant time delays, judicial expense, expenditure of judicial resources litigation and the development or evolution that the case law requires. Is this what we want?"

"Now let me say that we have, and I supposed admirably, set out to define what inherent risks are in subsection (c), but whether this is sufficient is not clear.

"Let me conclude with one other observation. What of those with language challenges? What then? I know that contract law provides the answers, but are we not asking for more litigation. What of minors? I do not know. At this point, I support the bill, House Bill 581. We need to revisit it in future years if we find that it results in injustice to injured victims.

"I support small business. But I am here also to give voice to the powerless, and sometimes those powerless are the injured victims.

"Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 581, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TORT LIABILITY," passed Third Reading by a vote of 50 ayes, with Representative Takamine being excused.

The Chair directed the Clerk to note that H.B. Nos. 1836, 1895, 1842, 1886, 1 and 581 had passed Third Reading at 10:26 o'clock a.m.

Stand. Com. Rep. No. 849 and H.B. No. 1818, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1818, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PRESCRIPTION DRUGS," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 850 and H.B. No. 248, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 248, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Case rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Case's remarks are as follows:

"Mr. Speaker, I rise in support of HB 248, HD 2, which proposes to authorize the issuance of revenue bonds by the University of Hawaii to retire construction debt on the UH's Kau'iokahaloa Iki faculty housing development in Manoa Valley.

"Mr. Speaker, this is a necessary step in a difficult chapter of UH-Manoa's history and in UH-Manoa's relationship with its host community. Essentially, UH built duplex housing on a site deep in single family residential Manoa Valley on the representation that the use and ownership of that housing would be limited to UH faculty. UH borrowed the money to build that housing from the Housing Finance and Development Corporation.

"However, for a variety of reasons which offer insight into why a government entity should generally not function as a private housing developer, UH has not been able to sell those units to UH faculty at prices and on a schedule sufficient to retire the HFDC debt. UH has thus been forced to consider selling the units outside of the UH community, and HFDC has been forced to consider foreclosing on its mortgage and selling encumbered units at foreclosure auction to any taker. The Manoa community bargained for neither of those eventualities.

"The proposed bonds would allow UH to retire the HFDC debt and obtain time in which to absorb the units into the UH community where they belong. As such, this is the best solution for all parties given the available options.

"Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 248, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HIGHER EDUCATION," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 851 and H.B. No. 551, HD 3:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 551, HD 3, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL LANDS," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 852 and H.B. No. 585, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 585, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CENTER FOR LABOR EDUCATION AND RESEARCH," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 853 and H.B. No. 737, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 737, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR URGENT CARE," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 854 and H.B. No. 1188, HD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1188, H.D. 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Yoshinaga submitted the following comments to be inserted into the Journal:

"Mr. Speaker, I rise to speak in support of House Bill No. 1188 (Standing Committee Report No. 854).

"Mr. Speaker, this bill represents a step forward in the right direction in that it will provide the means for us to address effectively the issues of crime that have been crippling and even plaguing our communities for a long time. This bill simply calls for a symposium that is designed to bring together not only key segments of our law enforcement and crime-prevention communities, but also significant leaders from the community as well. Set in motion, this bill will foster a network of relations and open up lines of communication to a greater level between the key agencies involved in fighting crime and/or preventing crime. This bill will promote vital information sharing, identify the key players and resources available to us in the law enforcement community, and will further strengthen or enhance our crime-fighting and crime-prevention programs and efforts which are presently in existence.

"In effect, a symposium on crime in Hawaii which is brought on by a joint effort of many local agencies and community groups would be a great opportunity for us to demonstrate that we can move forward and work together

to resolve and address the issues of crime. In a time when our resources are limited, pooling our existing resources together makes sense for many across this State.

"Given the fact that our state government is strapped with the ongoing problems of fiscal shortages and limited resources, we need to look at our existing crime problem creatively, in the endeavor, to accomplish our goals of: protecting our citizens, keeping our neighborhoods safe, and preserving the integrity of our communities. House Bill No. 1188 enables us, as a people concerned about the activities of crime, to achieve that ideal.

"Moreover, this bill will draw attention to and will promote a greater awareness among the general public concerning the status of crime our island state is in. With a greater awareness as such, citizens across this State will not only take ownership of crime-related issues in their neighborhoods, but will also have a hand in shaping their communities in preventing and deterring future acts of crime. In the end, they will have a hand in creating safer communities for their children as well as for other citizens.

"In summation, House Bill No. 1188 seeks to build a united front and stronger coalition, which is a vital component in the battle against crime in our island state.

"I urge all of my colleagues to join me in supporting this bill. Let us go on to build and create safer communities across our State.

"Thank you, Mr. Speaker, for allowing me to speak favorably on behalf of this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1188, HD 1, entitled: "A BILL FOR AN ACT RELATING TO A SYMPOSIUM ON CRIME IN HAWAII," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 855 and H.B. No. 1572, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1572, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL LOANS," passed Third Reading by a vote of 51 ayes.

The Chair directed the Clerk to note that H.B. Nos. 1818, 248, 551, 585, 737, 1188 and 1572 had passed Third Reading at 10:26 o'clock a.m.

Stand. Com. Rep. No. 856 and H.B. No. 1591, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1591, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Pendleton rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Pendleton's remarks are as follows:

"Mr. Speaker, many of those here know that I worked as a youth pastor for a while. That was before law school. And while working as a youth pastor I learned the sad fact that children are stolen. People actually steal kids from others. They just disappear.

"Fortunately, I never lost any youth. But I was always aware of the dangers, especially when we went on trips away from familiar surroundings.

"Mr. Speaker, about 354,100 children are abducted per year in this country. Many are abducted in this State, the Aloha State.

"We recognized the problem back in 1994 and passed Act 246 of that same year. But this Clearinghouse, which resulted from the Act, will sunset in June of 1997. Seeing the need for this service, which has in fact located abducted children and which raises awareness of the problem among parents, the Legislature has wisely decided to do something.

"I am a strong supporter of HB 1591 because it will make the Clearinghouse permanent. I still pray that someday we will rid our land of the crime of abduction of children. I wish that we could, with the blink of an eye, make this aina safe for all our keiki, but until that day we can at least be consoled by the fact that we have made this Clearinghouse program permanent. It is a good and worthy program.

"Mr. Speaker, I urge my colleagues to support HB 1591."

Representative Herkes rose and stated:

"I rise on the same item just to note that I am a member of the Advisory Board of the Missing Children Clearinghouse."

The Chair "so noted."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1591, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII STATE CLEARINGHOUSE FOR MISSING CHILDREN," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 857 and H.B. No. 1714, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1714, HD 2, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR AN ELECTRONIC BENEFIT TRANSFER SYSTEM," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 858 and H.B. No. 1716, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1716, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DISPOSITION OF UNCLAIMED FINANCIAL ASSISTANCE BENEFITS," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 859 and H.B. No. 1809, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1809, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 860 and H.B. No. 1812, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1812, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 861 and H.B. No. 1824, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1824, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 862 and H.B. No. 1852, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1852, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE RATE REGULATION," passed Third Reading by a vote of 51 ayes.

The Chair directed the Clerk to note that H.B. Nos. 1591, 1714, 1716, 1809, 1812, 1824 and 1852 had passed Third Reading at 10:27 o'clock a.m.

Stand. Com. Rep. No. 992 and H.B. No. 1738, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1738, HD 1, entitled: "A BILL FOR AN ACT RELATING TO A COMMERCIAL MARINE DEALER LICENSE," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 993 and H.B. No. 1244, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1244, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Tarnas rose in support of the measure with reservations and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Tarnas' remarks are as follows:

"My concern is that the Department of Health says they would already entertain proposals among companies at Campbell Industrial Park for one company to agree to a reduction in their allowable emissions and another company then being allowed to assume that incremental emission allowance.

"The DOH cautioned the Energy and Environmental Protection Committee that such an emissions trading program has not shown to be successful elsewhere, and the cost for administering such a program is beyond the current DOH budget."

Representative Yamane rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Yamane's remarks are as follows:

"I am in support of the potential benefits of this bill, but I am concerned with the increase in the current emission levels that this trading would encourage."

Representative Morita then rose and asked the Clerk to register an aye vote with reservations for her, and the Chair "so ordered."

Representative Kanoho then rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered."

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

Representative Kahikina then rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered."

Representative Yoshinaga then rose and stated:

"I'd just like to speak in support of this measure and have the extended comments inserted into the Journal, but I'd just like to summarize in light of some of the reservations."

The Chair "so ordered."

Representative Yoshinaga then continued, stating:

"As a recently elected representative, I'm learning that there are two ways to promote compliance with our laws. One is with the stick in terms of penalties and violations, and the other, is with a carrot, in the form of incentives, and credits.

"This, of course, is usual throughout our lives, and as a parent, and as a business manager, I think that we are finding that we need to start looking for carrots in terms of partnering with our industries as well as our businesses in the State.

"When my daughter was younger, I used to provide incentives for her. I think it was a quarter for every rubbish can that she emptied, and when I increased the incentives, she worked harder. My point is that in this measure it provides a form of incentive to motivate people to go beyond what is legally necessary in terms of air emissions in Campbell Industrial Park.

"This is a form of a carrot that I think is worthy of pursuit based on the reservations expressed on the floor today. I'm cognizant that we are all united in our desire for clean air, but this is an issue that needs to be pursued, and what is the right incentive to promote clean air for the future legacy of our children.

"Thank you very much."

Representative Yoshinaga's additional remarks are as follows:

"My point, of course, is that the advantage of the 'carrot' in the form of incentives and credits actually has the potential to motivate people to go beyond what is legally necessary. It is the classic win-win situation.

"HB 1244 does this by giving the director of the Department of Health the authority to recognize emission trading, provided that the emissions trading are quantifiable, enforceable, and otherwise consistent with the federal Clean Air Act and its implementing regulations.

"Let me assure you, that this does not mean that it would allow an increase in the air emissions as already allowed, because that would not be consistent with the federal Clean Air Act. The purpose of HB 1244, then, is to give industry the flexibility and the incentive to reduce their emissions and retire their old polluting equipment.

"By so reducing their emissions, a new company would be able to operate in the Campbell Industrial Park area by using those reduction credits. The new company, of course, would be required to use the best available control technology as of the date of establishment so the equipment would be much more efficient and clean. This

allows for the maximum use of our existing resources with an increase in pollution.

"It is a fallacy to think that we ought to wait until our air, our water, our aina is as polluted as Detroit or Los Angeles, before we do anything about it. I submit to you, Mr. Speaker, that the tourists who come to swim in our crystal clear waters, and breathe our refreshing air, and walk in our pristine forests, will be long gone before our pollution levels reach that of national ambient pollution standards.

"The point is that no tourist would come here if our air, water, and aina are as polluted as on the mainland. That is the reason we must take a pro-active approach to protecting the environment. There needs to be long-term planning to devise long-term solutions to prevent us from getting to the point of crisis as it will then be too little, too late for the environment.

"In testimony before the EEP Committee, industry and the DOH were all united in their desire for clean air, but were unable to reach a consensus on 'how' to achieve this desired state. It's clear to me that the issue demands further discussion, which I pledge to pursue during the next phase of the legislative process.

"Thank you for the opportunity to speak in support of this measure."

Representative Pendleton then rose in support of the bill, stating:

"Mr. Speaker, I do have some concerns about this bill while I am voting in support of it. Well, my concerns have to do with the efficacy of the incentives, and perhaps some of the unintended effects or consequences of those incentives. And I ask that the Clerk insert the balance of my remarks into the Journal. Thank you."

The Chair "so ordered."

Representative Pendleton's additional remarks are as follows:

"Mr. Speaker, I reviewed the testimony of Hawaiian Electric and Chevron. I have nothing against big companies. I am in favor of free markets and finding ways to be both pro-growth and pro-environment. I am struggling to find a principled and balanced approach between the two.

"I support the measure because it provides flexibility where such may be necessary. It also appears to adhere to the principles of protecting our environment. I did, however, review the testimony of, I believe it was the Sierra Club. This written testimony caused me some concern, and this is why I speak separately.

"This bill, House Bill 1244, is supposed to encourage existing industrial facilities to reduce emissions and provide some latitude to companies so as to enable them to construct new plants where such would otherwise be prohibited due to current levels of emissions. This bill authorizes trading of emission credits in certain circumstances.

"I support the bill because jobs are on the line. We must put our people to work, else there will be no one alive to enjoy the clean environment. At the same time, it is my hope that our actions do not damage or otherwise endanger the environment. I have read history. I know what the Industrial Revolution did to our environment. If it appears that this bill goes too far in the wrong direction, then at that future date we may have to revisit it to ensure that we have struck the appropriate balance.

"Thank you, Mr. Speaker, for permitting me to point out the tradeoffs we, as legislators, have had to wrestle with in HB 1244."

Representative Takumi then rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered."

Representative Hamakawa then rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered."

Representative M. Oshiro rose in support of the measure with reservations and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative M. Oshiro's remarks are as follows:

"While it is argued that this is a pro-active measure to allow new industries to enter into Campbell Industrial Park or existing industries to expand (in anticipation that all air quality permits will be allocated), this bill could allow the air quality to potentially worsen at Campbell Industrial Park or other areas where air emissions are permitted.

"As a simple example, I submit the following: There are two cups (representing air quality permits) filled with water (representing level of pollution), one is full, the other half full. Business 'A' with the 'half full' cup trades his remaining unused 1/2 cup allocation to business 'B' with the 'full' cup. Business 'B' then proceeds to fill the newly acquired 1/2 cup with water. The net increase in quantity of water (levels of pollution) for this entire transaction has now increased from 1-1/2 cups to 2 cups.

"Although this situation is hypothetical, there is the realistic possibility of increased air pollution in Campbell Industrial Park (or other areas) as a result of an emissions credit trading program.

"For this reason, and with due respect to the chairpersons who passed this measure, I must cast an 'aye' vote with reservations."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1244, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE ENVIRONMENT," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 994 and H.B. No. 387:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 387, entitled: "A BILL FOR AN ACT RELATING TO NURSES," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 995 and H.B. No. 1488, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1488, HD 2, entitled: "A BILL FOR AN ACT RELATING TO FAMILY CHILD CARE HOMES," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 996 and H.B. No. 1819, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1819, HD 1, entitled: "A BILL FOR AN ACT RELATING TO

PRESCRIPTION DRUGS," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 997 and H.B. No. 2, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the joint report of the Committees was adopted and H.B. No. 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR CARRIERS," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 998 and H.B. No. 1817, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the joint report of the Committees was adopted and H.B. No. 1817, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRONIC PRESCRIPTIONS," passed Third Reading by a vote of 51 ayes.

The Chair directed the Clerk to note that H.B. Nos. 1738, 1244, 387, 1488, 1819, 2 and 1817 had passed Third Reading at 10:32 o'clock a.m.

Stand. Com. Rep. No. 999 and H.B. No. 879, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the joint report of the Committees was adopted and H.B. No. 879, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DEGREE-GRANTING INSTITUTIONS," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 1000 and H.B. No. 884, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the joint report of the Committees was adopted and H.B. No. 884, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DEGREE-GRANTING INSTITUTIONS," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 1001 and H.B. No. 20, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 20, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE DRIVER LICENSING," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 1002 and H.B. No. 631, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 631, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative McDermott rose to speak against the bill, stating:

"This involves health care decisions made by legal surrogates. I certainly agree with the intent of the bill.

"I believe that all families and guardians should be allowed to determine appropriate health care decisions for their loved ones. However, House Bill 631 gives life partners more power and authority than an individual's own parents or their children.

"Now I don't know what the heck a life partner is and I'm sure if we ask all 51 members in here, I'd get 51 different answers. We have no legal definition of what a life partner is, and I believe that's part of what Representative Tom's working on in his Conference Committee. So I think we're opening ourselves up.

.well, we're certainly opening families up to legal conflict and heartache.

"Once again, what the heck's a life partner? I don't know, and we're giving these people who are undefined more rights, authority and responsibility than an individual's parents or children. So until we clarify that, I don't think it's a good idea.

"Thank you."

Representative Moses then rose in opposition to the bill, stating:

"In the introduction to the bill, it says: 'Historically health care professionals have turned to family members for consent in these situations' -- family members.

"And as my colleague said: What is a life partner? Well, this bill attempts to define a life partner as, it says here: 'Life partner means a person who is currently in a spousal-type relationship with a patient regardless of legal recognition at the time of the patient's lack of capacity.'

"What this bill does is authorize the same-sex marriage, or domestic partnership, or reciprocal beneficiary, or whatever you choose to call it, by a simple definition without any debate. I'm opposed to this bill, Mr. Speaker."

Representative Tom then rose and stated:

"I just want to make a very brief comment on the life partner thing. My only comment is, you'll know it when you see it, and I'm speaking for the bill."

Representative McDermott then rose in response and stated:

"I can appreciate what Representative Tom said, but certain things that we see sometimes may revolt some of us and others may find it perfectly acceptable.

"We don't have a legal definition to what a life partner is, and that's the whole crux of the issue here -- the language. If we took that clause out, I would be in wholehearted support of this measure. So if we took the two words out 'life partner,' I'd support it.

"Thank you."

Representative Pendleton rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Pendleton's remarks are as follows:

"House Bill 631 relates to health care decisions. Essentially, it establishes the law governing legal surrogates, their necessary qualifications, their obligations, and the rules surrounding what and how decisions are made with respect to another who is incapacitated.

"Mr. Speaker, I had initial concerns when I read earlier drafts of this legislation. Note, however, that this present bill is HD 2. My concerns had to do with the earlier drafts permitting a surrogate to 'make decisions to withhold or withdraw nutrition or hydration or other life-sustaining measures' as well as the apparent absence of judicial safeguards.

"The language I just quoted was from the initial version, which was found on page 11 in subsection (3) at line 3. My concern was that this was essentially giving statutory protections to those who would starve their

incapacitated relatives. What is nutrition? It is food. What is hydration? It is water. I had serious reservations about such unchecked power.

"What if the legal surrogate were one who would benefit from the death of the incapacitated? Could such mischief result?

"I am supporting this bill in its present form. House Draft 2 has the following language on page 10 of the bill beginning at line 14. I am quoting subsection (e): 'No legal surrogate under this part shall have the power to consent to or order the withdrawal of either natural or artificial hydration and nutrition or to consent to or order actions or inaction which would eliminate the provision of ordinary and usual medical care or treatment.'

"I am a former youth pastor. I have tremendous concerns about any law which would jeopardize life or which would diminish the value of life. I believe that God created us and that life is, therefore, necessarily and inherently and intrinsically valuable and precious. Accordingly, I would be loathe to vote for any legislation which would risk devaluing human life.

"Mr. Speaker, HB 631, House Draft 2, addresses all of the concerns I had with the initial version of this bill. There are indeed safeguards. There are opportunities for court review, there are opportunities for the provider to decline to follow the instructions of the surrogate when conscience would not permit compliance, and the bill creates a framework for the coming together of those who are close to and concerned for the well-being of the incapacitated person.

"While there might be some question as to what 'ordinary and usual medical care or treatment' might mean, at the very least it means that non-extraordinary measures are ordinary and usual. At the very least it means food and water and basic medication. If a court must read this record for guidance, I would want the court to know that starvation of an incapacitated person is not contemplated by our language, but is instead expressly prohibited.

"Providing testimony in support of this bill were representatives from the DHS, the Hawaii Long Term Care Association, the Hawaii Medical Association, and a number of organizations including Diana Tizard's Guardianship Task Force. Perhaps the greatest relevance to me was the testimony of Dr. Howard and the concurring opinions of Father Marc Alexander of the Catholic Diocese. Both of these gentlemen agree that the present draft has sufficient safeguards. The thrust of Father Marc's testimony is that moral concerns are sufficiently addressed by this version of the bill.

"Mr. Speaker, permit me to quote at length from his testimony. There are those who might not find moral reasoning relevant to the discussion. I find it critical to the discussion. We must always find ways to promote not just continuance of the body, the physical shell we inhabit, but we must find ways and embrace policies which affirm the value of life and the special, intrinsic worth of every human being.

"Mr. Speaker, Father Marc stated in his testimony dated February 25, 1997, as follows: 'Our Church's official position is nuanced. While we hold a presumption in favor of providing nutrition and hydration, including medically assisted nutrition and hydration, to all patients, this directive is hardly absolute. Such action must be of sufficient benefit to the patient in order to outweigh the burdens to the patient.' Father Marc goes on to opine that 'We [meaning the members of the Catholic Church] believe that two extremes must be avoided in regards to

the withdrawing and withholding of nutrition and hydration. On the one hand, one cannot simply say that the deliberate omission of treatment is never killing. On the other hand, one should not assume that all or most decisions to withhold or withdraw medically assisted nutrition and hydration are attempts to cause death. The key is one's intention. If one intends to cause death by withholding or withdrawing nutrition or hydration, then the action is immoral. If, however, one's purpose in withholding or withdrawing nutrition is to relieve the patient of a particular procedure that was of limited usefulness to the patient or unreasonably burdensome for the patient and the patient's family or caregivers, then the decision would be morally acceptable. In the former situation, one is killing by denying nutrition and hydration. In the latter case, one is foregoing burdensome and futile care, and allowing death to complete its course. There's a big difference between the two, and most ethicists, religious and non-religious, readily acknowledge the profound difference.'

"Given all of the foregoing, it is my conclusion, Mr. Speaker, that we have sufficient legal and medical safeguards in this bill. My concerns about the moral implications or ethical ramifications of the bill have been adequately addressed by the provisions of the bill and the insightful and helpful assessment of many such as Father Marc. This is not to say that only with the Church's imprimatur will I support a legal surrogate bill. Rather, I merely cite the foregoing opinion of a much respected and highly sophisticated priest, theologian, and human being, Father Marc, to demonstrate that I have not made up my mind lightly or too hastily or without having done due diligence. I have wrestled with the issues and carefully and meticulously weighed the benefits and potential risks. I have read the bill line by line and have reviewed the testimony. This bill merits my support.

"Mr. Speaker, I support House Bill 631, House Draft 2. I urge my fellow colleagues to support it as well.

"Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 631, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CARE DECISIONS," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives McDermott, Meyer and Moses voting no.

Stand. Com. Rep. No. 1003 and H.B. No. 19, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 19, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PARKING STALLS FOR DISABLED PERSONS," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 1004 and H.B. No. 761, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 761, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE SAFETY INSPECTIONS," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 1005 and H.B. No. 371, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 371, HD 2, entitled: "A BILL FOR AN ACT RELATING TO JOB REFERENCE LIABILITY," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 1006 and H.B. No. 636, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 636, HD 2, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY," passed Third Reading by a vote of 51 ayes.

The Chair directed the Clerk to note that H.B. Nos. 879, 884, 20, 631, 19, 761, 371 and 636 had passed Third Reading at 10:37 o'clock a.m.

Stand. Com. Rep. No. 1007 and H.B. No. 1745, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1745, HD 2, entitled: "A BILL FOR AN ACT RELATING TO BOATING ENFORCEMENT," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 1008 and H.B. No. 233:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 233 pass Third Reading, seconded by Representative M. Oshiro.

Representative Thielen rose and stated:

"I'm rising to speak against House Bill 233, the bill that allows hunters to hunt with pistols and revolvers.

"I keep thinking of Bambi, Mr. Speaker, when I speak about this measure. There are some very major safety and abuse concerns with this legislation.

"Current hunter education does not include training with handguns. That was brought out loud and clear in this Judiciary Committee hearing. The use of pistols and revolvers requires more skill and practice, but the people that get a hunter license do not have that practice mandated by our laws.

"The DLNR does not have adequate manpower or funding to adequately implement the proposals and enforce violations. The Honolulu Police Department was very concerned that there's an opportunity for abuse and malicious interpretation of the law.

"The concern is, Mr. Speaker, that anyone with a hunting license will be able to go armed with a handgun into the hunting areas, and they may not always be there for legal purposes. When questioned by enforcement officials, they can just claim that hunting is part of their agenda.

"The police department feels that the safety concerns outweigh legitimate uses. I really would ask the members to take a look at this. It's taken a very major step, and I'm not sure that we've had adequate time to really think about this. Do we really want to allow hunters to be armed with pistols and revolvers? Is this in the best interest of our safety in our wildlife areas?

"Thank you."

Representative Herkes then rose in support of the measure and stated:

"Let us note that this ability to carry a pistol or a revolver is by a licensed hunter in a hunting area. The people that do this sort of thing are not bank robbers. These are people that are in our forest, going after game to help feed their families.

"When you're faced, for example, in pig hunting, and you are faced with a cornered boar in the forest where your dog has him, and you have a choice of a knife, a rifle is somewhat ineffective in this situation, you have really a choice between a knife and a pistol or a revolver. It's a lot safer for your dog, a lot safer for you, to use a revolver or pistol to finish off this animal.

"Trying to enforce the prohibition against it, as the previous speaker said, is almost impossible, and I think it is proper for those people who hunt in the rural areas of this State, to allow them this additional protection.

"Too often, Mr. Speaker, we find, in many of our bills, that urban concerns and urban solutions have very negative impacts on our rural communities.

"Thank you."

Representative Morita then rose in opposition to the bill, stating:

"First of all, I'd like to disclose that I do have a brother that is a DOCARE officer.

"Pistols and revolvers are close-range weapons which require training, and users should be qualified. Unfortunately, as one of the previous speaker's mentioned, hunter education classes do not provide for training nor certification of users.

"Yes, pistols and revolvers can be used in specialized hunting situations but, unfortunately, some hunters cannot make the distinction on when it is appropriate. As a close-range firearm, it does not have the killing power to humanely kill the game.

"Most importantly, we should consider the DOCARE officers' safety in the field. Pistols and revolvers can easily be concealed. These officers are already in a dangerous situation dealing with firearms, and this branch of enforcement is the most assaulted group nationwide. We should not subject them to additional danger.

"Thank you."

Representative Yoshinaga then rose and asked the Clerk to register an aye vote with reservations for her, and the Chair "so ordered."

Representative Moses then rose and stated:

"I also rise in support of this bill, Standing Committee Report No. 1008, House Bill 233, which allows licensed hunters -- so they're licensed already to carry an unconcealed legally acquired pistol to hunt game. And it says they must transport them to and from in enclosed containers.

"It's clearly within the provisions of the Second Amendment of the United States Constitution to do this. I see absolutely no reason why it should be disallowed.

"In addition, 44 magnums, 38s, 45 caliber pistols will easily stop anything you can find in Hawaii, unless we have elephants here that I've missed.

"Thank you, Mr. Speaker."

Representative Lee then rose and asked the Clerk to register an aye vote with reservations for her, and the Chair "so ordered."

Representative M. Oshiro then rose to speak in support of the bill with reservations, stating:

"My reservations have already been expressed by previous speakers. I would just hope that the subsequent committee may consider some of the conditions we imposed upon a similar type of bill last year by which a requirement would be imposed of having a caliber of .44 inches or larger, a barrel length of 6 inches or larger, and a permanently affixed scope, Mr. Speaker. This would be in line with the concept that these people will be hunting animals with these weapons.

"I would also ask, Mr. Speaker, that a condition thoroughly be imposed, such as a time limitation, so that the hunter can carry a handgun, but it would only be in the hunting area and not being carried around town in his car or on his person.

"Thank you, Mr. Speaker."

Representative Thielen then rose and stated:

"I would like to just add to the very good comments of the Majority Floor Leader, and suggest that a requirement be put into the bill that there be field experience with that handgun for that hunter before the hunter is allowed to carry that weapon.

"Our law is defective right now, and we're expanding the use of handguns with a defective law that does not mandate that they have field training using that handgun. So I would hope that that recommendation would go to the Senate, and I personally will send it over to the Senate also.

"Thank you, Mr. Speaker."

Representative Meyer then rose in support of the measure, stating:

"I'd just like to point out to people that a hunter must be much closer to the game that he's hunting with a pistol. There is a much greater chance of hitting something you don't want to hit with a rifle. You're much further away, and also there's a much better chance of just winging the game and leaving them injured, and it seems like a safer and more humane way to hunt with a pistol.

"Thank you, Mr. Speaker."

Representative Case rose in opposition to the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Case's remarks are as follows:

"Mr. Speaker, in opposing this measure I wish to adopt the previous remarks of the representatives from North Kauai and Wahiawa. I also wish to incorporate, by reference, my floor remarks of March 5, 1996 on a similar measure before the previous legislature. (By reference only.)

"In addition, I am now convinced that the advocates of this bill include those whose motives extend well beyond simple assistance to legitimate hunters and are directed primarily at what they view as the 'freedom' to carry arms whenever, wherever and whatever they choose. It must be obvious to all but those in deepest denial that there is no such right and that the proliferation of arms, particularly handguns, in our society represents one of the most major immediate and long-term threats to public safety.

"Thank you."

Representative Pendleton rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Pendleton's remarks are as follows:

"Mr. Speaker, I support House Bill 233 which is a bill for an act relating to hunting because it will allow a licensed hunter to carry and use an unconcealed and lawfully acquired pistol or revolver while engaged in hunting game animals.

"This bill concerns two things. First, we have the safety of our hunters. Occasionally, hunters will be confronted with game -- wild game -- such as pigs, which are wounded but not dead. Though injured, such game can still pose a significant risk to the hunter, and at close quarters such game might force a hunter to have to defend himself or herself. At close quarters, a rifle might not be an effective means of defense. Accordingly, a handgun would be useful. It would provide a defense.

"Second, this bill concerns a new, more challenging way of hunting. Apparently, on the mainland, hunting with a pistol has become quite a popular sport. Because of the increased challenges, many hunting enthusiasts have begun hunting in this fashion. Statistics have shown that safety is not thereby justified, nor does permitting such hunting increase the number of handguns being purchased by the public.

"Mr. Speaker, I strongly believe in safety. I am opposed to felons and other convicts having weapons of any sort. However, I do believe in the Second Amendment to the United States Constitution. And it is this constitutional right I wish to support. If we prevent lawfully licensed hunters from being able to hunt with pistols, we rob them of their ability to effectively defend themselves in certain situations. Preventing them from having handguns while hunting will not prevent the bad guys from using pistols to rob banks or to carjack automobiles.

"Mr. Speaker, the testimony from the NRA and the HRA, the Hawaii Citizen's Rights Committee, the Hunting Shop of Kauai, and numerous members of the public testified in favor. I find their testimony credible.

"It is unfortunate that we make hunters and gun collectors and other sportsmen out to be the bad guys. They are not, and I resent anyone who would intend to paint them as such. This bill permits licensed hunters to carry and use lawfully acquired handguns in hunting. It intends no more.

"I support House Bill 233. I ask my colleagues to join me."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 233, entitled: "A BILL FOR AN ACT RELATING TO HUNTING," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Case, Morita and Thielen voting no.

Stand. Com. Rep. No. 1009 and H.B. No. 22, HD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 22, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Hiraki rose and stated:

"I rise in support of this bill which extends the State's DUI implied consent law to the testing of drugs.

"Mr. Speaker, this is one of several transportation safety bills that we'll be voting on today that will have an impact on saving lives, and no-fault, and health care costs.

"At this time, I just wanted to thank Representative Tom and the members of the Judiciary Committee for passing this and other good traffic safety measures.

"In our discussion on lowering automobile insurance, Mr. Speaker, we spent much time on how to reform the law -- whether to choose tort, pay no-fault, pay at the pump, etc. But the most effective way to reduce automobile insurance and societal costs is to reduce the number of serious automobile accidents. This measure will help to accomplish this goal, Mr. Speaker.

"As we all know, there's an increase in the use of drugs that impairs a driver's judgment, ice, crack, heroin, amphetamines; however, under the current law, a police officer may observe that a driver is impaired, then stops this driver and administers a blood alcohol test that yields a result well below the .08 blood alcohol concentration level. But clearly, the police recognizes that the driver is still impaired.

"Under the current law, the driver at that point can refuse to take a drug test, and there are no consequences for refusing to take this drug test. Under this measure, Mr. Speaker, like the implied consent law for alcohol, we finally provide a penalty for refusing to give a blood or urine sample to determine the presence of drugs in a driver's body.

"With the passage of this bill, we're working towards joining the majority of other states who have similar legislation that will take impaired drivers, whether by alcohol or by drugs, off the road."

Representative Moses then rose in support of the bill, stating:

"I commend my colleague, the Transportation Chair, for helping get this measure through the Transportation Committee, and request that his comments be echoed as if they were my own in the Journal," and the Chair "so ordered." (By reference only.)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 22, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 1010 and H.B. No. 967, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 967, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Tarnas rose to say a few words in support of the bill, stating:

"This bill affirms and strengthens the statutes requiring the Department of Land and Natural Resources Division on Boating and Ocean Recreation to implement the provisions of the Kaneohe Bay Master Plan.

"This plan was developed over many years through a cooperative effort of the community and the agencies, and represents an agreement of all the different parties. Unfortunately, the Department has not been carrying out its responsibilities and implementing the plan.

"A recent Attorney General opinion affirms that the Department has failed to do its job, and has granted permits to go beyond what is allowed in the plan as to vessel capacity. The residents there have seen two very large boats arrive, and have expressed outrage at this.

"This bill sends a clear message to the DLNR: DO YOUR JOB! And it is a strong vote of confidence in the Kaneohe Bay Master Plan, the planning process, and the Kaneohe Bay Regional Council.

"Thank you very much, Mr. Speaker."

Representative Meyer then rose in support of the measure, stating:

"I would like to thank the Chairman of the Ocean Recreation and Marine Resources, and also the Chairman of the Judiciary, for the very fine job they did in having hearings on this bill, and amending it, and taking care of the problem that is a very large one in my district, and I'm very grateful."

Representative Yoshinaga then rose and asked the Clerk to register an aye vote with reservations for her, and the Chair "so ordered."

Representative Tom rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Tom's remarks are as follows:

"This bill addresses concerns of the communities along Kaneohe Bay. Kaneohe Bay is a unique and treasured natural resource that must be preserved and protected for the continued enjoyment of the general public. The bay is an extensive ecosystem that contains a unique estuary system surrounded by barrier reefs that are unequalled in the world. Currently the bay is heavily used by the general public, ocean and marine research programs, and commercial ocean recreation operations, creating conflicting use situations.

"In 1990, this Legislature created the Kaneohe Bay Task Force for the purpose of reconciling competing uses of the bay. Commercial recreation was expanding on the bay and there was growing concern about preserving the delicate environment. After more than one year of countless meetings between community members representing commercial recreation, fishermen, business people, neighborhood boards, and state and county agencies, a master plan was produced which accommodated competing interests while protecting the environment. By law, the Department of Land and Natural Resources was required to implement the recommendations of the master plan.

"Mr. Speaker, I must report, however, that DLNR has failed, and continues to fail, to implement the master plan recommendations and enforce the law. Accordingly, HB 967 sought to implement these recommendations by statute because of DLNR's inaction.

"The day before the House Judiciary Committee's hearing on this measure, we received an opinion from the Attorney General's office. According to the Attorney General, the present law, which went into effect in 1993, requires DLNR to implement the recommendations of the task force, so there is no longer a need for this Legislature to direct DLNR to take the specific actions enumerated in the bill. Moreover, at our hearing on HB 967, we received DLNR's commitment to comply with the Attorney General's directives. As a consequence, the

detailed technical language in HB 967 has been eliminated.

"It is clear that DLNR must now enforce the law. As permits expire, administrative enforcement will lead to compliance with the Kaneohe Bay Task Force Master Plan. It will no longer be business as usual in Kaneohe Bay.

"The main purpose of HB 967, HD 2, is to repeal the sunset provision so that, in spite of DLNR's inaction, there will still be an opportunity to implement the recommendations of the Kaneohe Bay Task Force pursuant to Act 317. We must repeal the 1998 sunset to ensure that the Kaneohe Bay Regional Council remains in existence.

"As you know, Kaneohe Bay is one of our island's natural treasures and is located in my district. Any measure which deals with Kaneohe Bay is very important to my constituents and to me personally. Kaneohe Bay has played a major part in the lives of many windward residents, generation after generation.

"Mr. Speaker, this legislation is necessary to preserve and protect Kaneohe Bay. I urge my colleagues to show their full support for this important bill."

Representative Yamane rose in support of the measure with reservations and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Yamane's remarks are as follows:

"Testimony was presented that indicated that there were businesses started after 1993 with the approval of DLNR. These businesses may have had no knowledge about the rules that the Attorney General has said had the force of law since 1993. Is this being fair to those businesses?"

Representative Pendleton rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Pendleton's remarks are as follows:

"Mr. Speaker, House Bill 967 is a good bill and worthy of our support because it implements statutory changes relating to the recreational and commercial uses of an important area in and/or adjacent to my district, namely, Kaneohe Bay.

"Mr. Speaker, I would rather not say unflattering things about a governmental agency or department, but the facts indicate that the DLNR has failed to implement the recommendations of the Kaneohe Bay Task Force, which was created by Act 208 of 1990. Because of such failure, we now need House Bill 967.

"This Task Force developed a plan through a community-based process. The plan generally seeks to balance the various commercial, residential, and recreational activities taking place in the area. This plan takes a balanced approach and attempts to create a Kaneohe Bay for everyone to enjoy.

"I urge my fellow members to support the hard work of the Kaneohe Bay Task Force and the Master Plan it created by voting for House Bill 967."

Representative Thielen rose in support of the measure and asked that her comments be inserted into the Journal, and the Chair "so ordered."

Representative Thielen's remarks are as follows:

"By passing this bill we take an important step to protect our precious ocean environment.

"The Kaneohe Bay Task Force worked hard to develop the Kaneohe Bay Master Plan. This process included users of Kaneohe Bay, community members and government representatives. Interests were balanced, keeping in mind the need to prevent further degradation of this resource.

"The Department of Land and Natural Resources, Boating and Ocean Recreation Division, did not abide by the legislative directive and issued certain permits for vessels which exceeded the carrying capacity authorized in the plan. Once again, the Legislature declares that the Division must abide by the Kaneohe Bay Master Plan, developed pursuant to Act 208, Session Laws of Hawaii 1990."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 967, HD 2, entitled: "A BILL FOR AN ACT RELATING TO OCEAN RECREATION MANAGEMENT," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 1011 and H.B. No. 112, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 112, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Pendleton rose and stated:

"I rise to speak in favor of Stand. Com. Report No. 1011, House Bill No. 112, House Draft 2, relating to crime.

"The purpose of this bill is to address the concern that we have with victims of crime who return to their home country after being robbed or whatever here in the State while on vacation. We're hoping to use modern technology to address the problem of the tremendous cost that is incurred in trying to bring people back, from say Japan to Honolulu, for a trial.

"I strongly support the intent, and I think this is an important bill. However, Mr. Speaker, it's important for us, as a body, to recognize that the mere passage of this legislation will not necessarily solve the problem. The reason is that there are both constitutional concerns at the State level as well as the Federal level.

"At the State level, there is the right to confrontation as at the Federal level. So a defendant would be entitled to a right to a face-to-face confrontation with the person testifying against him or her.

"Now, whether or not videoconferencing can survive that kind of constitutional standard or live up to that standard, we don't know. We do know that at the Federal level, the Supreme Court has opined that in certain select cases, the right of confrontation need not be met. I believe those cases have to do with child molestation where, for the protection of the children, we allow one-way videoconferencing.

"Whether this bill will survive the State or Federal constitutional standards is questionable. So I hope that we have given, in the bill, sufficient ammo in our case. We can assume that the ACLU or some other group is going to try and stop this law, but I think it's very important that we move forward. I'm very hopeful that we'll be able to survive the constitutional hurdles.

"Thank you."

Representative Pendleton's additional remarks are as follows:

"Mr. Speaker, I would be remiss if I did not say a few other words. In addition to the words of warning to our Legislature regarding the challenges this bill may be facing, I want to say a few words to ensure that the findings of our Legislature are absolutely clear to any judge who may at some time in the future review this law.

"Mr. Speaker, we have passed this law because we find that there is a serious crime problem in this State. The crime problem is not limited to residents. It involves visitors, as well. In fact, Mr. Speaker, visitors are often the targets of the crimes occurring on our streets. This is because those who would steal know that visitors cannot afford to fly back to Hawaii to testify at a trial, either because of the expense or inconvenience, or because of the emotional toll having to relive such an experience necessarily entails.

"The State does not have the money to fly these victims of crime back to Hawaii, and so we are looking at ways to ensure that the victim can, in fact, provide testimony against those who have committed crimes against them. One such way may be videoconferencing.

"I have already discussed the constitutional concerns, but let me conclude by saying that this Legislature has found that there are clear and compelling reasons for permitting testimony of victims and witnesses via two-way closed circuit video. If we cannot obtain testimony, those who steal, et cetera, will go free. They will know that crimes against visitors are never punished. We cannot permit such a situation. Hence our State has clear and compelling reasons for passing House Bill 112."

Representative Cachola then rose to speak in support of the bill, stating:

"Mr. Speaker, this bill is a pro-tourism bill. What it does is to give signals to our visitors out there that Hawaii is a very safe place to stay.

"I also would like to thank the Consul General of Japan for really focusing on the crimes committed against our visitors, and to tell us that one way of really doing things to help them out so that witnesses and crime victims can testify, is through the process of videoconferencing.

"I know that the perception out there, unless we correct it, is that criminals, while committing crimes, will never go to prison because most of the crimes against our visitors are property crimes. There's no room for this kind of criminal in our prison system. There's not enough room for them to be incarcerated.

"Also, I'd like to thank the Prosecutor's Office as well as the AG's Office, and also our courts, for helping us draft this bill and, hopefully, it will be enough to pass constitutional muster.

"I would also like to thank Chairman Tom for doing such a good job in drafting this bill and improving it.

"I hope all of you folks will vote in support of this bill.

"Thank you."

Representative Stegmaier then rose and stated:

"On the same item, I rise in favor but with one reservation.

"This is our crime against the tourist bill for this year, but I think that we may have to take stronger actions to indicate to all of us that we will not tolerate the preying on innocent tourists.

"If this doesn't go far enough to hold those responsible, and there is still a problem with taking advantage of the innocence and lack of information of tourists who come to Hawaii to enjoy themselves, we may have to take stronger action to treat tourists in the same light that we treat other weaker members of our society, such as the elderly and the young.

"Thank you."

Representative Case then rose in support of the bill and stated:

"Mr. Speaker, I want to amplify the remarks of the previous speakers but be more direct, because one of the things we sometimes forget is that as we stand on this floor and debate these issues, we are creating a record of legislative intent. That record is something that courts look to to ask why the Legislature did something, why it cared so much about a particular issue. In legalese that sometimes translates into ascertaining whether there is a compelling public interest.

"This bill addresses a compelling public interest. And the reason that the clear demonstration of that compelling public interest is important is because the court will be asked to interpret our State Constitution.

"The State Constitution, as any lawyer in the room knows and has been taught in law school, is a living document; it adjusts with the times. Even though, in the past, it may have been interpreted as requiring literally a face-to-face confrontation, that doesn't mean that it will be interpreted the same way as the future brings different circumstances.

"So let me just lay out the legislative thinking very clearly here. This economy is, and for the foreseeable future will be based on tourism. There's no question about that. We can argue about it, we can wish it weren't so, but it's a fact.

"Tourism depends on tourists visiting our islands. Crime is not good for tourists. Tourists don't like crime. If there's a lot of crime, they go elsewhere, the economy falters, and we don't get to pay for all of the government services we want.

"Therefore, if, in fact, there is a focus on tourists in terms of crime, then that's a real problem for the State. And that has, in fact, been the evidence that this Legislature has received; that, in fact, criminals are focusing on tourists, especially in property crime, which is skyrocketing.

"The reason they're focusing on them is because of the confrontation clause, which requires those tourists to come back from wherever they are in the world and testify. And if they don't because they are somehow inconvenienced or don't want to go through the effort, those accusations are dismissed, there's no witness, the criminal is freed to do it all over again. So it's extremely important for us, in whatever way we can, to facilitate the prosecution of property crimes against tourists.

"Now the State's resources are limited so if the argument is that somehow the State should pay out millions of dollars or tens of millions of dollars to bring those tourists back, there's a limit to what the State can do. Therefore, the adjustment that we're trying to make in this bill, and I think the Judiciary Chair has done a

good job of articulating that, is to provide that, in certain instances, and to fully address this compelling public interest, we should, in fact, allow videoconferencing.

"We hope that the courts will see that this is a situation in which the Constitution needs to adjust to the circumstances and necessities of the time.

"Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 112, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CRIME," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 1012 and H.B. No. 1579, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1579 HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 1013 and H.B. No. 92, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 92, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES," passed Third Reading by a vote of 51 ayes.

The Chair directed the Clerk to note that H.B. Nos. 1745, 233, 22, 967, 112, 1579 and 92 had passed Third Reading at 11:01 o'clock a.m.

Stand. Com. Rep. No. 1014 and H.B. No. 88, HD 2:

By unanimous consent, action was deferred to the end of the calendar.

At 11:04 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 11:12 o'clock a.m., the Vice Speaker assumed the rostrum.

STANDING COMMITTEE REPORTS

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1092) recommending that H.B. No. 2060, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2060, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS BUDGET," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Ahu Isa, Arakaki, Cachola, Chang, Kahikina, Morihara, Nakasone, Santiago, Souki, Takumi and White being excused.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1093) recommending that H.B. No. 1390, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the

Committee was adopted and H.B. No. 1390, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY BUDGET," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Ahu Isa, Arakaki, Cachola, Chang, Kahikina, Morihara, Nakasone, Santiago, Souki, Takumi and White being excused.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1094) recommending that H.B. No. 350, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 350, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Ahu Isa, Arakaki, Cachola, Chang, Kahikina, Morihara, Nakasone, Santiago, Souki, Takumi and White being excused.

UNFINISHED BUSINESS

Stand. Com. Rep. No. 1015 and H.B. No. 131, HD 2:

By unanimous consent, action was deferred to the end of the calendar.

Stand. Com. Rep. No. 1016 and H.B. No. 1246, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1246, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Yoshinaga submitted the following comments to be inserted into the Journal:

"Mr. Speaker, I rise to speak in support of HB 1246, HD 2.

"In the course of our hearings in the Committee on Energy and Environmental Protection, we have learned that Hawaii's air quality is better than almost any other area in the nation. We are, after all, in the middle of the largest ocean on the planet and I think most of us can count on one hand the number of days when we have no recordable winds.

"Nevertheless, we have pockets of problems irritations and nuisances for the most part but nuisances that have created sincere community concern.

"This bill addresses the concerns of residents near the Campbell Industrial Park, which is really the only area of the state (except the communities near volcanic vents on the Big Island) where air pollution is the real threat, as indicated by families becoming ill from sulfuric dioxide released last year around the park.

"We also have a vested economic interest in making sure that the Campbell Industrial Park remains the most viable center of heavy industry in our state, AND that the second city of Kapolei grows and flourishes.

"If in fact, as the Department of Health has testified, there is not a scientifically, quantifiable threat to human health or the environment, the first solution we must try in the Kapolei area is communication.

"The communication we provide for in this bill is an annual report to communities neighboring the industrial

park. An annual report which is designed to give these citizens the maximum amount of information and reassurance they can have.

"If they then have questions regarding the potential threat to their health, they can contact the DOH coordinator who is currently assigned to the industrial park.

"Members, I suggest that this is an important first step we must take to begin to facilitate communications and understanding between neighbors.

"I strongly urge all House members to vote in favor of this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1246, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AIR POLLUTION," passed Third Reading by a vote of 48 ayes, with Representatives Morihara, Souki and Takumi being excused.

Stand. Com. Rep. No. 1017 and H.B. No. 1715, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1715, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FRAUDULENT USE OF CREDIT CARDS," passed Third Reading by a vote of 48 ayes, with Representatives Morihara, Souki and Takumi being excused.

Stand. Com. Rep. No. 1018 and H.B. No. 116, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 116, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Hiraki rose and stated:

"HSCR 1018, House Bill No. 116, I rise in support of this bill which creates a zero tolerance law for drivers under the age of 21. I have some prepared remarks that I'd like to insert into the Journal. But again, I wanted to thank the Judiciary Committee for their support in passing this measure."

The Chair "so ordered."

Representative Hiraki continued, stating:

"Just briefly, Mr. Speaker, when there's an automobile accident, statistics show that younger drivers are overrepresented in DUI-related automobile accidents. For example, in Hawaii, between 1986 and 1993, 67 drivers under the age of 21 died in alcohol-related accidents.

"The Honolulu Police Department has also estimated that just in 1994, 118 DUI arrests and 364 liquor arrests were made in this age category of 15 to 20 years. Mr. Speaker, this is especially frustrating since we all know that the legal age for drinking is age 21.

"With the passage of this measure, Mr. Speaker, the message to drivers under the age of 21 will be not just don't drink and drive, but don't drink.

"Thank you."

Representative Hiraki's additional remarks are as follows:

"I rise in strong support of HB 116, HD 2, which creates a new offense for vehicle operators under the age

of 21 who are driving under the influence of intoxicating liquor. I would like to express my thanks to the members of my Transportation Committee, Representative Terrance Tom and his Judiciary Committee, for their support in passing this bill.

"Driving impaired by alcohol or other drugs is a crime, and the automobile collisions that result are not accidents. Instead, they are easily preventable collisions by obeying the state's laws and not operating motor vehicles under an impaired state. In Hawaii, between 1986 and 1993, 67 drivers under the age of 21 have died in alcohol-related automobile accidents. The Honolulu Police Department has also estimated that just in 1994, 118 DUI arrests and 364 liquor arrests were made in the 15 to 20 year old age group.

"Specifically, this bill prohibits a person under the age of 21 from operating or assuming actual physical control of any vehicle when that person's blood or breath has an alcohol concentration of 0.02% or more but less than 0.08%. This concept is commonly referred to as zero tolerance. It is the policy of most states' medical associations, including Hawaii and the American Medical Association. Some may argue that zero tolerance is too harsh, but there should not be any leeway given to minors where alcohol is involved. If the law states that a person under the age of 21 cannot consume alcohol, it should also mean that they should not have any alcohol in their blood whatsoever. If a person is under the age of 21, it is illegal for them to purchase, publicly possess and consume alcohol. An analysis of the effect of zero tolerance laws enacted, which lead to the loss of a driver's license, can reduce total alcohol-related fatalities. It further revealed a 20% reduction in alcohol-related fatal crashes among drivers under the age of 21. This law prevents fatal car accidents.

"Studies indicate that, in general, teenage drivers are already the highest at risk on the road because they lack the experience of older, more mature, drivers. In addition, the younger driver is more likely to take risks and to exercise poor judgment. The combination of these shortcomings with a lower tolerance level for alcohol is fatal. The message to teenagers should be 'don't drink' not just 'don't drink and drive.'

"Finally, the National Highway Systems Act provides incentives for all states to adopt 'zero tolerance laws' that set maximum blood alcohol concentration limits for drivers under 21 at 0.02% or lower beginning October 1, 1998.

"Once again, I strongly support this bill and I urge you, the members of the House, to support this measure which toughens the state's DUI laws and saves lives."

Representative Moses then rose and stated:

"I also rise in support of this bill, and wish to commend the Transportation Chair again for helping move this through his Committee.

"As I did before with the drug bill, I wish to have his remarks entered into the Journal as if they were my own. Thank you, Mr. Chair, and thank you, Mr. Speaker."

The Chair "so ordered." (By reference only.)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 116, HD 2, entitled: "A BILL FOR AN ACT RELATING TO DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR," passed Third Reading by a vote of 48 ayes, with Representatives Morihara, Souki and Takumi being excused.

Stand. Com. Rep. No. 1019 and H.B. No. 1620, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1620, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY LAW," passed Third Reading by a vote of 48 ayes, with Representatives Morihara, Souki and Takumi being excused.

Stand. Com. Rep. No. 1020 and H.B. No. 1701, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1701, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Thielen rose and stated:

I'm rising to speak against House Bill 1701, the Barber's Point, HCDA bill.

"I spoke about this as we were considering the bill on the second reading. I'd like to ask the members to consider again what we are doing here. What this bill would do is allow the HCDA to be the development authority for this whole area.

"It takes the City and County totally out of the picture, it takes the community totally out of the picture, and it allows that same developer that brought us the Kakaako high-rises to take over in this second city area.

"When I look at the testimony from the City and County, they were stating that everything that is being asked of HCDA, all the justifications for bringing HCDA into the picture, all of those activities can be done by the City and County. They can do the oversight of the environmental mediation, and the Navy is actually doing the mediation work out there. They can do the conveyance process.

"The City and County has the authority to enter into leases, and the most telling comment is that the Ewa Development Plan for development of this Second City was community driven.

"We know with HCDA, they aren't community driven, they don't give a rip about what the community cares about, and they ignore the community's wishes. They don't involve the community in the process.

"Another thing that is very different is that the HCDA is not beholden to the voters the way that the land use planners of the City and County are. The City Council is responsible to the voters. The City Council members are elected by the voters.

"HCDA has no community involvement, and isn't required to even consult the community. The City also stated that Governor Cayetano had not yet sent the Reuse Commission's recommended plan on to the Navy, and that this bill comes to us without benefit of debate by that Reuse Commission or the Leeward community or the community-at-large.

"So we're really just taking out that whole community process from this bill -- pardon me -- we're taking the whole community out of the picture if we go ahead and pass this bill.

"The City and County Director also mentioned her position is that HCDA should be abolished. I would much rather see a bill going through this body abolishing

HCDA, saying: thank you very much for Kakaako, we don't think you did a very good job, we're left with high-rises down there, owned by foreign investors, and it's not something of which our City and County can be proud."

Representative M. Oshiro then rose on a point of personal privilege and stated:

"Mr. Speaker, the current speaker should stick to the issues of the bill.

"Thank you."

Representative Thielen continued, stating:

"Okay. Thank you for redirecting me to the bill that appoints HCDA as the authority.

"My concern is that we don't have a good track record of HCDA to give us any confidence if they're going to do a good job out in the Second City area.

"We know that this bill takes the community out of the process. I think it's a mistake, I wish that we would vote it down today. If that's not possible, as it goes over to the Senate, maybe they'll be wiser and take a harder look at it and not send it back.

"Thank you, Mr. Speaker."

Representative Moses then rose in opposition to the bill, stating:

"I'm the Representative from the area most directly affected by the redevelopment of Barber's Point. I also served on the Executive Committee of the Barber's Point Redevelopment Commission for over three years, and I chaired one of the four committees of that group which was the Parks Recreation and Public Facilities Task Force. I've been involved with this procedure since Day 1.

"Drilled into our heads was the fact that President Clinton pledged that never again will the high-handed tactics of government subvert the will of the people, and that the people who are most directly affected by any redevelopment of any military installation must be involved, and must approve all of the redevelopment that will take place in their community.

"Barber's Point resides wholly within the City and County of Honolulu. The people have dealt with the Barber's Point Redevelopment Commission for almost four years and resent the fact that the Governor, through his ability to appoint the members, stacked the Commission. The outcome was decided before we began.

"Now we do it again. We want to make the local reuse authority the HCDA, and yet the City and County have said they will do it at no cost to the State government. Why, if we are re-engineering, downsizing, talking about budget constraints, why are we establishing HCDA with another mission? I don't understand that.

"The City and County has all the required talents and legal remedies for taking title to the land and redeveloping the land in accordance with the Redevelopment Commission. Establishment of the City and County as the local reuse authority does not change the decisions made by the Redevelopment Commission which, as the previous speaker indicated, have not yet been made public.

"A few token representatives on a commission or a board does not change the fact that the people have no say. In this bill, to amend and to appease the people, it

has been written that a couple of people from the Neighborhood Boards will be nominated, and the Governor will put them on the HCDA Board only as it has to do with Barber's Point local reuse. It will not change any decisions made by that Board to have a couple of token people on it.

"It's important to note that other than the Redevelopment Commission, the State, especially HCDA, has not been involved with the reuse commission's public hearings except to come to the public and tell them what the public was going to have. Not, what does the public want? Need? Etc.

"Now designating the City and the County as the LRA, as I've already said, will not change the decisions made by the Redevelopment Commission and then forwarded by the State to the Federal government, and finally approved or disapproved or amended by the Federal government. Once that plan is approved, the local reuse authority's mission is to make it happen, not to change it.

"So why then, in committee hearings on this bill, have we been told that the reason we must have HCDA as the local reuse authority is to ensure that there be an airport. That has been the only reason, we have been told, that there must be a local reuse authority controlled by the State. If it's such a good idea, why don't the people see it? Maybe the State needs to make their case a little better.

"I am strongly opposed to this bill, Mr. Speaker.

"Thank you very much."

Representative Kawanakoa then rose and stated:

"I rise also in opposition to this measure for the reasons stated previously by my colleagues."

Representative Morita then rose and asked the Clerk to register an aye vote with reservations for her, and the Chair "so ordered."

Representative Fox then rose and stated:

"A yes with reservations. I, too, believe the City and County should be the local reuse authority."

The Chair "so ordered."

Representative Kahikina then rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered."

Representative Pendleton then rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered."

Representative Meyer then rose in opposition to the bill, stating:

"This bill will give the Hawaii Community Development Authority total control to do whatever it wants, including to disregard community involvement. I also believe it's contrary to the Federal government's base realignment and closure process.

"We will be looking at another bill later this afternoon, House Bill 2082, House Draft 1, which proposes to turn all the waterfront property -- from Pier 1, down Nimitz, all the way to Lagoon Drive -- to HCDA. I think HCDA has lots to do without taking over, over 2,000 acres in Barber's Point when there are others that have been intimately involved for over three years that would do the job better.

"Thank you, Mr. Speaker."

Representative Lee then rose and stated:

"I rise to speak in support of HB 1701 which designates the Hawaii Community Development Authority (HCDA) as the local redevelopment agency for the Barber's Point Naval Air Station.

"The Navy is closing the Air Station and is preparing to convey the land to the State for redevelopment. In accordance with Federal guidelines and with community input, the Redevelopment Commission has held hearings and developed a reuse plan.

"The time for implementation is at hand. The designation of HCDA is logical and practical. HCDA is an existing organization with practical experience in redeveloping Kakaako. There are now beautiful buildings and there soon will be a Children's Museum.

"The jewel of redevelopment is the beautiful shoreline park, and the ultimate goal is the development of a green ribbon from Waikiki to Barbers Point or Kalaeloa Point. I strongly support that goal and feel that HCDA is the right agency to do the job.

"World War II history buffs also want to establish a Pacific Air Museum in one of the old Navy hangars at Barber's Point. There is an Army Museum at Fort DeRussey and the Arizona Memorial at Pearl Harbor. There is yet no air museum, yet the Pacific War was essentially an air war.

"When completed, the Pacific Air Museum will play a role in economic development for the entire island, and play a role in the education of children from all over the State. I urge my colleagues to support this bill."

Representative Moses then rose and stated:

"Since we just started talking about the merits of the proposals under the Redevelopment Commission instead of sticking to the bill and talking about the local reuse authority, I feel compelled to say that all studies prove that no airport is needed at Barber's Point.

"So that we just heard that we're talking about the museum, we should also talk about the other redevelopment proposals. It's the State -- DBEDT -- that rated the airport the worst possible thing to put at Barber's Point. . .

At this point, Representative M. Oshiro rose on a point of personal privilege.

At 11:25 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 11:26 o'clock a.m., Representative Moses continued, stating:

"The State, through its own studies which we have paid for through taxpayers' dollars, clearly indicates no relief airport is necessary within the State. If you wanted one, there's others; there's Civil Defense, there's alternate emergency landing runways. All of the things they've said they've needed for an airport at Barber's Point are well documented with taxpayers' dollars in the State's own documents.

"As I said, DBEDT rated the airport as the lowest priority for redevelopment of Barber's Point, the economic drain it would cause on the community. The top two items alone would bring in over \$300 million of

revenue to the State, and yet you cannot do those with an airport.

"So very briefly, we don't need an airport; we do need other things there but that is not what we're debating here today. What we're debating is whether or not the State, in its infinite wisdom of not listening to the community, should now be given authority to redevelop Barber's Point any way they wish without again, any community input. The City and County should be the local reuse authority, not the State."

Representative McDermott then rose on a point of personal privilege and stated:

"As a former marine, I'd like to correct the statement that the Pacific War was an air war. It was many ground campaigns based around amphibious landings.

"Thank you."

Representative Say then rose to speak in favor of the bill, stating:

"Mr. Speaker, the U.S. Navy's intention to convey approximately 2,150 acres of surplus land at Barber's Point Naval Air Station to the State for redevelopment, in accordance with a reuse plan submitted to the Governor, I would say to all of you, is a tremendous gift to Hawaii's residents. It is estimated that the reuse plan will create about 3,600 jobs at Barber's Point by the year 2020.

"The reuse plan will also provide valuable lands to meet some of the State's most pressing needs. These may include what the previous representative stated: airport facilities; 452 acres for a shoreline park and recreational facilities to serve the city of Kapolei and the leeward coast; 259 acres for active sport-related activities; and 496 acres of residential, light industrial and commercial property for the Department of Hawaiian Home Lands; and last but not least, 78 acres for the care of our homeless community. The reuse plan also provides land for other important public facilities and economic development projects.

"While this plan directs the use of surplus Barber's Point land for many important functions, we all need to recognize that a local redevelopment authority capable of implementing its goals and directives can be met. House Bill 1701 designates the Hawaii Community Development Authority (HCDA) as the local redevelopment agency to implement the Barber's Point Reuse Plan. It also designates a new community development district for the Barber's Point area known as Kalaeloa.

"And in the Finance Committee deliberations on House Draft 2, yes the members are correct that we have implemented or incorporated two individuals from the area to be part of that Board."

Representative Takamine then rose in support of the bill, stating:

"I guess, in light of the Chairman of the Finance Committee's remarks, I just wanted to thank the Finance Committee for the amendment that they placed into House Bill 1701. And in doing so, Mr. Speaker, I'd like to note that I guess our rule is in part to constantly try to improve not only the statutes, but also the dynamics involved, the people's opportunity to participate in any kind of decision making.

"And I'd like to note that, with respect to the HCDA's statute, when the district of Hamakua was going through its transition, the statute. . .

Representative Thielen then rose and asked:

"Mr. Speaker, are we speaking to Hamakua in the bill or Barber's Point?"

The Chair asked Representative Takamine to stick to the merits of the bill.

Representative Takamine continued, saying:

"Yes, I will, and I will bring it back.

"That even at that time, the statute was changed, and there was an adjustment made to the participation as to who could participate in the decision making, because really, when we talk about having any kind of impact on any district, the decision making is so critical and important to what that impact will actually be. Even when Hamakua was added to the jurisdiction of HCDA, there was no specific community representation.

"Only in this bill, House Bill 1701, House Draft 2, due to the efforts of the Finance Committee, do we actually have two specific members of the specific community impacted, being or having a direct role in any decision making that will occur. Certainly, in today's time, I guess, it's easy to say: Well, a lot of this is mere tokenism. But I do think this is a first step in that process of trying to enhance and increase collaboration."

Representative Thielen then rose and stated:

"In responding to the two prior speakers, the City and County is very capable of implementing the Barber's Point Reuse Plan.

"And in responding to the last speaker, the City and County's process is community-driven, it doesn't contain just merely two token representatives. It is a whole community-driven process where the community is involved in working on the plan, giving its input, and it's truly a community-driven event.

"I don't see the need to remove the community, just have two members be involved in the HCDA process. And let HCDA go ahead and run the show, we've lived with their mistakes before. I don't see why we want to do it again."

Representative Ward then rose and stated:

"Just a very brief footnote in opposition to this particular bill.

"I know it's good, what the Finance Chair has done in terms of adding that there will be a community input into this, and that it's rather surprising that Hamakua did not have its input. But I would remind this body, it was only in 1993 that this body had suffrage in the committees. There was no voting in the committees. The only place we voted was on the floor.

"So to say that we've come a long way by having that there's going to be reference to the community in this particular bill, and we should jump up and down and say: 'Hey, this is great,' we have to remember where we all are in terms of the democratic process of climbing up to full inclusionary involvement.

"With that, Mr. Speaker, I register my no vote."

At 11:25 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 11:35 o'clock a.m., the motion was put to vote by the Chair and carried, and the report

of the Committee was adopted and H.B. No. 1701, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE REDEVELOPMENT OF BARBERS POINT NAVAL AIR STATION," passed Third Reading by a vote of 42 ayes to 6 noes, with Representatives Kawanakoa, McDermott, Meyer, Moses, Thielen and Ward voting no, and Representatives Morihara, Souki and Takumi being excused.

Stand. Com. Rep. No. 1021 and H.B. No. 1868, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1868, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HURRICANE RELIEF FUND," passed Third Reading by a vote of 48 ayes, with Representatives Morihara, Souki and Takumi being excused.

The Chair directed the Clerk to note that H.B. Nos. 1246, 1715, 116, 1620, 1701 and 1868 had passed Third Reading at 11:36 o'clock a.m.

Stand. Com. Rep. No. 1022 and H.B. No. 1250, HD 3:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1250, HD 3, pass Third Reading, seconded by Representative M. Oshiro.

Representative Yamane rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Yamane's remarks are as follows:

"I have concerns about how effective this committee can be without the participation of the Federal government. Another concern is how this committee will help in the catholic protection and interference mitigation programs they are supposed to consider."

Representative Meyer rose and stated:

"I also would like the Clerk to register an aye with reservations on this measure. I just have a few comments.

"This bill, as amended, would take out federal agencies, any representation by federal agencies. The existing voluntary committee, right now, does have federal agencies involved.

"I believe in the pipelines. Many of them go through military property, so I feel that without the federal representation an important link in the information chain is missing and we will not get the full picture.

"Thank you, Mr. Speaker."

Representative Yoshinaga then rose and stated:

"I rise to speak in support of this measure, and I'd like to summarize to address a few highlights, and insert the remainder of my comments in the Journal," and the Chair "so ordered."

"When tens of thousands of gallons of oil spilled into Pearl Harbor last May from a Chevron pipeline and closed the major tourist attraction in our State, the environmental and economic necessity of addressing this type of pipeline safety in our State became a mandate for this Legislature. The knee jerk reaction at that time was to say that the State itself, at taxpayers expense, should regulate pipelines that carry hazardous materials.

"This measure is a creative and innovative approach to creating a partnering between industry and government at no taxpayers' expense to deal with this issue.

"Since then, our research and analysis has shown that the federal government is already doing a good job of setting national pipeline standards and that, frankly, it is the intent of this Legislature to guarantee that industry continues to be active in regulating itself. In the past, there was such a voluntary industry committee; however, prior to the 1996 oil spill, this committee's activities lapsed in the early 1990's until this recent crisis.

"This bill is critical in dealing with this important pipeline issue as the Senate is not passing any vehicle to the House on this type of situation. And we should not let such an opportunity to deal with a partnering between industry and the State slip through our fingers in addressing this type of problem. We should send to the Senate a strong message that we believe that pipeline safety is a legitimate and priority environmental issue for our State at this time.

"Thank you, Mr. Speaker."

Representative Yoshinaga's additional remarks are as follows:

"We've learned that industry has been active in regulating itself in the past -- but that the voluntary industry committee lapsed during the period between the early 1990's and just this year.

"The intent of this Legislature should be to guarantee that this lapse in attention does not happen again. HB 1250, HD 3, is necessary to ensure that a pipeline safety committee continues, as all the parties are in agreement that such a committee is both desirable and necessary. This bill is an excellent example of partnering with private industry at no cost to the taxpayer.

"The other major purpose of this bill is to guarantee accountability and public disclosure. Without requiring that a report be submitted to the Legislature, no one knows what, if anything, the committee is doing.

"The state and the public have a right to know what measures are being taken to ensure that our health, safety and environment are being protected from oil spills. We need to be pro-active in our battle to prevent oil spills.

"As my dear obachan used to say: 'An ounce of prevention is worth a pound of cure.'

"This measure, which partners with industry to operate the pipeline safety committee, is worth millions of dollars of equipment and manpower to cure or cleanup a spill. Moreover, the Senate is not passing any vehicle over to the House on the issue of pipeline safety. This bill, therefore, becomes the critical vehicle for this issue. We cannot let fingers be pointed at us for not acting on this problem. We must send the Senate a message that we believe that pipeline safety is a legitimate, priority environmental concern in our state.

"I strongly urge all members to vote in favor of this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1250, HD 3, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL RESPONSE," passed Third Reading by a vote of 45 ayes to 1 no, with Representative Kanoho voting no, and Representatives

Cachola, Marumoto, Morihara, White and Yamane being excused.

Stand. Com. Rep. No. 1023 and H.B. No. 1741, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1741, HD 2, entitled: "A BILL FOR AN ACT RELATING TO WATER RESOURCE MANAGEMENT," passed Third Reading by a vote of 46 ayes, with Representatives Cachola, Marumoto, Morihara, White and Yamane being excused.

Stand. Com. Rep. No. 1024 and H.B. No. 1866, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1866, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Fox rose in opposition to the bill, stating:

"There's a provision in this bill which has many laudatory features that would tax annuities. Annuities should not be taxed as they are currently not taxed for two reasons. The most important is that they are part of what the people of Hawaii use to prepare for retirement. Taking taxes out of annuities means they won't be available -- those funds will not be available for the people when they retire. The second reason for not taxing annuities is what it does for our State in competition with other states in the ability to write insurance.

"Only nine states currently tax annuities. Four states have given up the taxing of annuities over the past few years. An additional state is on the verge of ending the taxing of annuities which will reduce the total to eight states.

"Why, when the other states are going in the other direction, would we move forward and start taxing annuities? The reason these other states are dropping the taxing of annuities is because it has a direct economic impact. It has an impact on the insurance industry in those states, because people don't write policies where they're being taxed if other states don't tax.

"I believe that we should oppose this bill as long as taxing of annuities is part of it.

"Thank you."

Representative Moses then rose in opposition to the bill and stated:

"Thanks to medical advances and improved living conditions, people are now living much longer. Today, adults can expect to live to an average of over 75 years of age. The average length of a person's life has increased by more than 60 percent in this century alone. And this increased life expectancy, and a trend to early retirement, has created a need for providing financial security during the longer retirement periods.

"By the end of 1995, over 65 million people were covered by some kind of insured private pension plan. The number of persons covered by insured pension plans has increased by more than 65 percent in the last ten years, from 39.6 million in 1995. Half of the work is in commerce and industry, and three-quarters of all government civilian personnel are now enrolled in retirement plans other than social security.

"As you know, social security is failing. As more and more people retire, private pension plans will play an even larger role in the financial security of retirees. Taxing annuities, or taxing amounts paid for annuities, is bad policy.

"Imposing this tax places a substantial burden on one of the primary ways that people provide economic security for themselves in their old age. Most people who retire have little or no income other than the annuities, pensions, and social security which, as we said, is failing. When the money that they can invest to provide annuity or pension income is made subject to a tax, their retirement income is reduced.

"Four states have repealed their annuity premium taxes since 1994. Most of these states have repealed the tax for economic development reasons. Only nine states and the District of Columbia currently impose a premium tax on annuities. Kansas and D.C. are considering the repeal of their tax.

"As my colleague said: Here we go in the opposite direction of everybody else. The adoption of this bill will perpetuate the high tax, anti-business climate that the State is known for.

"It should be remembered that annuity contracts are basically insurance for income after retirement. It is funded with the hard-earned wages of the workers of this state who have tried to provide for their retirement security without relying solely on the government. Annuities are intended to provide guaranteed retirement income as protection against the possibility of outliving one's financial resources, or resorting to the State to provide welfare for you.

"Thank you."

Representative McDermott then rose and stated:

"I'll make it brief. I see everyone glued to their seat, waiting for my remarks. I rise to speak against the bill.

"I just see this as another tax increase particularly aimed at the elderly, and I can't support that.

"Thank you."

Representative Pendleton then rose in opposition to the bill, stating:

"I sat in on, and was a member of the joint Judiciary/CPC Committee when we looked at earlier versions of this bill, and in those committees I voted no on this insurance premium taxes. It's not that I have a knee jerk reaction against all taxes but this particular tax is particularly onerous because it is regressive. And by regressive, I mean that it is levied on individuals without regard to their ability to pay.

"Now, Mr. Speaker, this bill has a low-income housing tax credit in it, and I think that is a good thing. I also see it on human services and housing, and understand that there are people out there with tough times. This is a difficult economy, and my heart goes out to them. And I would support such a measure if it were in a separate bill and severed from this insurance premium tax.

"Mr. Speaker, I don't recall the earlier drafts of this bill containing the low-income housing tax credit. It's my recollection that this is something added subsequent to the earlier drafts of this bill. And I'm wondering how something good like this got tacked on to something so bad. Perhaps it's to sweeten this but I'm not going to bite, I'm not going to go for it.

"I wish something as good as the low-income housing tax credit were in a separate bill so that I could vote and support it because I think it's an important measure. But I will not vote for this bill because of the premium tax on insurance.

"Thank you."

Representative Yoshinaga then rose and asked the Clerk to register an aye vote with reservations for her on this same measure, and the Chair "so ordered."

Representative Ahu Isa then rose and stated"

"Please register my vote of support with grave reservations on this bill," and the Chair "so ordered."

Representative Takai then rose and asked the Clerk to register a yes with reservations vote for him on the same measure, and the Chair "so ordered."

Representative Say then rose in support of the measure, stating:

"First of all, it was in the decision making of the House Finance Committee that we did incorporate the low-income housing tax credit that all banks and savings industry has at this point in allowing the insurance carriers to provide those, similar to HFDC.

"Secondly, Mr. Speaker and members of this House, I would like to state for the record that on page 4 of this bill, there is no reference of any tax increase on annuities, it's blank. There is no tax increase in this particular measure.

"And third, Mr. Speaker, the Department of Commerce and Consumer Affairs did come before the Finance Committee requesting -- if you look on page 1 -- that they would like to go back to an annual and quarterly tax statement.

"And those were the three improvements of this particular measure. So when members of the House say that there is a tax that we're levying against the public at this point on House Draft 2, there is no tax increase on annuities.

"Just for the record, Mr. Speaker. Thank you."

Representative Kawanakoa then rose and stated:

"I rise in opposition to the same measure. If I could ask the Clerk to insert the majority of my comments into the Journal," and the Chair "so ordered."

Representative Kawanakoa continued, saying:

"I'll just simply make a few remarks. With regard to the notion that there's a blank on page 4 with regard to this measure, I think there's only one way for that number to go, and that will be up.

"I'm afraid that in the future, in Conference Committee or otherwise, we will see an increase on our taxes with regard to annuities. I also believe, as my colleagues, that this is particularly egregious when we go after the savings of our elderly.

"I guess I just look at the big picture and note that we keep raising taxes. And I guess we've run out of ways to tax the majority of the people so we've divided them up into smaller groups, and now we're taxing them through fees or other costs in our courts, and other ways to go

after small minorities instead of doing a broad brush -- increase of taxes across the entire tax base.

"In this matter, we single out the annuitants and chase after their savings, knowing that they might not have the political clout to come back here and unseat some of our representatives that make this decision. I won't allow that to occur.

"I speak on behalf of the elderly, the people who rely on these savings, on these annuities, and hope that my colleagues will see fit to also vote in this manner."

Representative Kawanakoa's additional remarks are as follows:

"This bill seeks to tax the people least able to afford it. Older residents here depend on their fixed incomes from annuities and Social Security and savings. The government already taxes savings and Social Security. Now we propose in this bill to tax annuities. It's wrong to do so. and I urge you to defeat this bill."

Representative Thielen then rose to speak against the bill, stating:

"I would like to note, Mr. Speaker, since when can anyone in the public believe that government won't impose a tax when you have language such as is in the bill: 'Each authorized insurer, with respect to annuity insurance contracts, shall pay to the Director of Finance, through the Commissioner, a tax of ___,' and the amount is yet to be filled in, 'percent on the gross premiums,' and the language goes on. I don't think that you would find a single person, out in the public, that would believe that government wouldn't fill in a number there, and then this would mandate a tax on the annuities.

"The bill, Mr. Speaker, has a very good provision: low-income housing tax credit. But the tax on annuities is basically unfair, and I can't support the bill because of that.

"I sent out nearly 9,000 surveys to the Windward district, asking whether or not people believed that a tax on annuities was a fair thing to do. The survey just went out, and we've already received nearly 5 percent return, which is quite significant for a turn-around within about five days.

"Eighty-four percent of those people objected to taxing annuities, 8 percent were undecided, and only 8 percent said yes. So I think that if you want a representation from the Windward side of Oahu, the people there strongly oppose this kind of tax as unfair.

"And, Mr. Speaker, I will conclude my remarks now, but I do not want to shut off further debate from anyone else. So at this point, I will wait to call for a roll call until you indicate to me I should do that.

"Thank you."

Representative Meyer then rose to speak against the bill, stating:

"Like some of my other colleagues, I'm concerned about the blank there as to what percentage would be charged. I note that in the ten states that still charge tax on annuities, the percentage rose from a low of 1 percent to a high of 3.5 percent, so we can't be sure what will be filled in there along the process.

"I also note, for my colleagues, that since 1995, four states that previously charged tax on annuities have repealed that law. That is one of my concerns about this

bill, and the other is the exorbitant increase in penalties to insurance companies. Where the penalty was previously \$25, it is now marked up 20 times to \$500, in a time when our economy is in the doldrums and businesses are struggling.

"While I know there's a perception that insurance companies are deep pockets, big bucks, and can withstand anything, they are businesses, and I think this increase is unjustified.

"Thank you, Mr. Speaker."

Representative Moses then rose and stated:

"This would be my second time, and I will yield if another colleague wishes to speak on the bill.

"On this same measure, the report title is: insurance taxes. The description imposes a tax on annuity policies. On page 4, as was pointed out by our colleague, the tax of zero percent -- blank percent -- it's blank. It could also be a hundred percent. It talks about annuity insurance contracts, and in the last paragraph on page 4, right under the blank where the percent would go, it says: 'The tax also shall apply to premiums for insurance written on individuals residing outside the State. . .' and then it goes on to talk about payment of a comparable tax.

"Mr. Speaker, there definitely is some indication that this bill will tax something. I believe it is a tax bill."

Representative Morita then rose and asked the Clerk to register an aye with reservations for her, and the Chair "so ordered."

Representative Yamane rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Yamane's remarks are as follows:

"I have concerns about what the taxing of annuities will do to the accessibility and affordability of annuities to the public."

At this time, Representative Thielen rose and asked for a roll call vote.

The request for a roll call was put to vote by the Chair and upon a show of hands, the request was granted.

Roll call having been requested, H.B. No. 1866, HD 2, was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1866, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE PREMIUM TAXES," passed Third Reading on the following showing of Ayes, Noes and Excused:

Ayes, 34: Representatives Abinsay, Ahu Isa (kanalua), Arakaki (kanalua), Cachola, Case, Chang, Garcia, Goodenow, Hamakawa, Herkes, Hiraki, Ito, Jones, Kahikina, Kanohe, Kawakami, Lee, Menor, Morita (kanalua), Nakasone, Okamura, M. Oshiro, Saiki, Santiago, Say, Suzuki, Takai, Takamine, Tom, White, Yamane, Yonamine, Yoshinaga (kanalua) and P. Oshiro.

Noes, 15: Representatives Aiona, Fox, Halford, Kawanakoa, Marumoto, McDermott, Meyer, Moses, Pendleton, Stegmaier, Takumi, Tarnas, Thielen, Ward and Whalen.

Excused, 2: Representatives Morihara and Souki.

The Chair directed the Clerk to note that H.B. No. 1866 had passed Third Reading at 11:56 o'clock a.m.

At 11:57 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 11:59 o'clock a.m.

Stand. Com. Rep. No. 1025 and H.B. No. 1828, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1828, HD 2, entitled: "A BILL FOR AN ACT RELATING TO VITAL STATISTICS," passed Third Reading by a vote of 46 ayes, with Representatives Cachola, Marumoto, Morihara, White and Yamane being excused.

Stand. Com. Rep. No. 1026 and H.B. No. 1101, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1101, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BED AND BREAKFAST OPERATIONS," passed Third Reading by a vote of 46 ayes, with Representatives Cachola, Marumoto, Morihara, White and Yamane being excused.

Stand. Com. Rep. No. 1027 and H.B. No. 1105, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1105, HD 2, entitled: "A BILL FOR AN ACT RELATING TO DENTAL HEALTH," passed Third Reading by a vote of 46 ayes, with Representatives Cachola, Marumoto, Morihara, White and Yamane being excused.

The Chair directed the Clerk to note that H.B. Nos. 1250, 1741, 1828, 1101 and 1105 had passed Third Reading at 12:03 o'clock p.m.

Stand. Com. Rep. No. 1028 and H.B. No. 132, HD 2:

By unanimous consent, action was deferred to the end of the calendar.

Stand. Com. Rep. No. 1029 and H.B. No. 1196, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1196, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 1030 and H.B. No. 1208, HD 2:

Representative Okamura moved that the joint report of the Committees be adopted and H.B. No. 1208, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Ahu Isa rose to speak in favor of the bill with reservations, stating:

"This bill extends the moratorium prohibiting petroleum manufacturers from operating retail dealer operator service stations from 1997 to 1999. The bill goes further

to state that major manufacturers over 30 percent of market share may not open any new stations.

"While I do commend my colleague for wanting to help small business, I am concerned about areas in our State that may need gasoline stations. Many of these areas do not have independent dealers to provide this service.

"Mr. Speaker, we tend to forget about the rural areas of our State, especially on our neighbor islands, that need these stations. And Mr. Speaker, I would ask: Would this bill prohibit a major petroleum manufacturer from operating any station in these rural areas even if no independent dealer was to be found? I hope not, Mr. Speaker.

"Thank you."

Representative Kanoho then rose and stated:

"My support but with reservations on the same measure," and the Chair "so ordered."

Representative Thielen then rose and stated:

"Mr. Speaker, same thing with serious reservations, because we are interfering with the ability for a lot of areas to be served and we may end up with some problems on the neighbor islands where there is no readily available gas service.

"Thank you."

The Chair "so ordered."

Representative Meyer then rose in opposition to the bill and stated:

"In 1993, Act 329 was passed that prohibited manufactures or jobbers from operating any new retail stations. This was a two year moratorium. The rationale was that mom and pop service stations were going out of business, they couldn't handle the competition from the big boys.

"In 1995, the Legislature enacted Act 238 to extend the moratorium. No longer did the dealers say that this bill would save mom and pops. It was admitted that mom and pops could no longer have service stations because of the new EPA laws which made it prohibitively expensive. New tanks had to be put in, sniffing devices on your pipes, things had become far more sophisticated, and the cost to run a service station has become very high, so we didn't use that argument.

"But the dealers needed protection so we passed that bill. But we allowed the manufacturers and jobbers to build a new retail station, if they would build a new one at the price tag of probably over a million dollars and put a dealer in business.

"This is really government interference in the free market system. We have had at least three studies done; fourth, when you add the one that the bill in 1995 asked for. And I have that report here from LRB; it's a huge report. And each time the findings are the same, that when you interfere with competition, you ensure that the price will stay up or go up.

"Now it's 1997. This moratorium was supposed to sunset, but again we're tinkering with this business like we, as legislators, know better than the industry, and we've extended this moratorium for another two years.

"I don't feel comfortable with that at all. I have sat through many, many hours of testimony, listening to both

sides. It's not that I want to see small dealers, respectable businessmen who have built up their service station business, go out of business. But I think we're barking up the wrong tree with this kind of legislation. And for that reason, I cannot support this bill."

Representative Kawanakoa then rose in opposition to the bill and asked that the words of the former speaker be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Yoshinaga then rose in support of the bill and stated:

"I will summarize my comments just to address some of the points made, and I will insert the remainder of my comments in the Journal. (The Chair "so ordered.")

"I'd just like to start with the fact that I welcome the debate on the floor because this bill is a controversial issue. This issue has been debated for many years, as some of the previous speakers have alluded to. However, it touches the very heart of our individual beliefs and some of our most valued relationships. This is an issue that has consumed a decade of legislative time and consideration, and it is an issue that I believe we need to resolve this year.

"When we first began considering divorcement legislation in Hawaii, Costco and Sam's Club were just mere fantasies or consumers' dream. Outlet stores and wholesale merchandising were why some of our parents planned extra days to go to the Mainland to shop for really good deals.

"We can all remember when Toys-R-Us -- I can, as a new parent then -- started at Pearlridge, and we raced there as revolutionary prices were being offered. Sports Authority, Eagle Hardware and Waikale have now taken our island by storm. We routinely shop at Computer City, Office Max, and now Circuit City.

"This new wave of merchandising has been pro-consumer, but it has spelled CHANGE for us in capital letters. Some of us have mourned the passage of smaller retailers and perhaps new ones will follow in their footsteps. OK TV, Chocks, a store where my father has always bought his TV sets, are probably not going to make it with respect to the CHANGE in capital letters.

"Perhaps I'm being sentimental, but there is another concern I see with this trend, and that is: the loss of dollars from our local economy and local people to foreign jurisdictions that see us as a regional marketplace or a relatively, frankly, small marketplace in a much bigger scheme.

"I stand today to ask the members' support to take a stand in one of the last industries where we can make such a statement for small business. We can state that we want our local gas stations to be run by local small businessmen -- dealers who hire local people and put their money back in our local economy.

"We have spent the past two months in fairly intense consideration of all aspects of this issue. I personally have spent a good portion of my professional career working in a large oil industry company here in Hawaii.

"What we have done in this measure is to craft, for the members' consideration, a proposal that is unique. It is unique because it is written to address the specific situation here in our State that is unlike any other state in the nation.

"Mindful of the companies that operate here, how they operate and what their intentions must be, with respect to our regional marketplace. And in response to one of the previous speakers: Yes, this market share tests in this bill does hit Chevron harder than any other company.

"But let me remind the members that Chevron is the company with the majority of dealers in Hawaii, that Chevron is the company that provides more than half the gasoline that we consume and use in our State. And Chevron, as a company, has refused to make a commitment that they will not put their dealers out of business in the future.

"On page 3 of the bill, lines 19 and 20, basically, it does not prevent Chevron from opening any new stations in the State. But what the bill provides is that they may open no new company-operated stations in the State. And that is where the distinction lies, that they must then continue to use small dealers.

"We have also built into this bill, a tremendous amount of flexibility for other competitors in the gasoline business. We have been sensitive to the concern that new communities are not being served, that the natural evolution of the marketplace has been stalled by a decade of moratoriums. Therefore, we are mindful that the adjustment must be gradual, and that a two year continuation of the current moratorium will give government regulators and the industry time to prepare for our new structure.

"I would like to thank and acknowledge Chair Ron Menor for his insight and his assistance in crafting this unique legislation. And I also would like to acknowledge Chair Tom for his contribution to our deliberations. Both of these Chairs personally have had many years of background in this divorcement issue, and were both very helpful in dealing with and basically balancing the complexity and enormity of this very controversial issue.

"Therefore, Mr. Speaker, I urge all the members to support this measure and pass it over to the Senate today.

"Thank you very much."

Representative Yoshinaga's additional remarks are as follows:

"Mr. Speaker, I firmly believe that we have crafted a new and creative approach to this issue to send to the Senate for consideration. I ask all of my colleagues in the House to support this effort to send a message to the multi-national industrial giants: We are Hawaii. We are Ohana. We stand together.

"I strongly urge all members to vote in favor of this very important legislation."

Representative Moses then rose in opposition to the bill, stating:

"I'm reading the bill as my colleague just asked me to do, and I just can't believe that we left out so many things here. It appears to me that we should require the same response here from Meadow Gold and Dole Pineapple and anybody else here if they have 30 percent of the market; they can't open any more stores or they can't sell any more. I just think we're very remiss in leaving out so many businesses in Hawaii.

"So until we fix the bill and include every business, I want to vote no on House Bill 1208, HD 2.

"Thank you."

Representative Meyer then rose and stated:

"Just a few more words.

"I know that they are good intentions with this bill, and I know how hard many different Representatives have worked to try to craft an agreement that would be of assistance to these independent dealers. I look at this as disgruntled tenants, a landlord-tenant problem. It's a supplier and a retailer's problem.

"It just seems totally inappropriate to me that this body would pass bills to dictate to a very large industry how they should operate. We did look at a bill earlier in the session that would have created like a task force where you could bring the independent dealers together with representatives from the jobbers and the refineries, specifically Chevron and BHP. Bring them to a table with a facilitator and let them go at it for a year and then come back with a report to the Legislature.

"And that, to me, I think would be far more fruitful than continuing to keep the prices of gas high by the legislation that we pass and get in the way of the free market.

"There was a comment here that this bill would allow new people into the market. I would seriously doubt that anybody would want to come in here once they looked at the kind of laws that we pass and the regulation that we put on this business. This is not a business that is easy to get into. The entry costs are extremely high and when you see that you're going to be regulated to the hilt, you're not going to come to Hawaii.

"Thank you."

Representative Pendleton rose in opposition to the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Pendleton's remarks are as follows:

"Mr. Speaker, I rise in opposition to House Bill 1208, HD 2, Standing Committee Report 1030. I am opposed to this measure and will vote no because this bill is anti-free market, anti-competition, and will not lead to lower fuel prices.

"Mr. Speaker, please refer to the provisions on page 3 of the bill. Subsection (2) sets forth the percentages which will govern the number of company-operated retail service stations which may be opened. This sort of micro-managing of the economy will help no one. I believe that a free market is the best way to go. This bill will only result in stifling competition."

The motion was put to vote by the Chair and carried, and the joint report of the Committees was adopted and H.B. No. 1208, HD 2, entitled: "A BILL FOR AN ACT RELATING TO GASOLINE DEALERS," passed Third Reading by a vote of 44 ayes to 7 noes, with Representatives Hiraki, Kawananakoa, Marumoto, McDermott, Meyer, Moses and Pendleton voting no.

Stand. Com. Rep. No. 1031 and H.B. No. 1451, HD 1:

Representative Okamura moved that the joint report of the Committees be adopted and H.B. No. 1451, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Halford rose and stated:

"I rise to speak against Standing Committee Report 1031.

"I would like to take this opportunity to point out a little known fact that makes this bill very expensive to implement. This bill requires the administration to adopt rules to require that gasoline sold in this State for use in motor vehicles contain 10 percent ethanol.

"The majority of existing underground fuel vessels at service stations in Hawaii are incompatible with ethanol. The overall construction costs of replacing existing tanks with compatible ones is several hundred thousand dollars for each service station. While most service stations would choose to stay in business if ethanol were mandatory, they would pass their new capital costs on to the consumers.

Thank you."

Representative Fox then rose to speak against the bill, stating:

"We all understand that this bill does not require the use of 10 percent ethanol. What it does, though, is create the rules so that if ethanol is adopted, everything is in place to go ahead. It's like having a loaded gun stored in your upstairs drawer, ready to be used when the opportunity comes along. It would enable the State to invite ethanol manufacturers in and then trigger the use of this provision. It's dangerous to have this in the bill; this provision should be removed.

"Thank you."

Representative Yoshinaga then rose to speak in support of the bill, stating:

"Also for the sake of brevity, I will summarize my comments on this measure and will insert an expanded commentary. (The Chair "so ordered.") But I'd like to address a few points that have been raised.

"The purpose of this bill is to provide information on a very difficult and complex issue. And that is with respect to ensuring that our petroleum industry is operating in a competitive environment that has been much debated for the past ten years.

"Eight years ago, the Legislature of our State discovered that they knew very little about the petroleum industry, and we knew who was doing business here but not how or how much or when. At that time, my predecessor from my district, Mazie Hirono, was Chair of the Consumer Protection Committee, and a proposal was put forward that oil companies doing business in our State make monthly reports on their inventories, their prices, and their other business activities.

"The information was to be kept confidential, but the State would be able to know how to better plan for emergencies, make strategic plans, and monitor a critical link in our economy. As I understand it, the authority for the Petroleum Information Reporting Act came under the advent of the Public Utilities Commission. However, for various reasons, this important piece of information back to the Legislature was never implemented.

"By this measure, Mr. Speaker, we are going at it from a different direction. This time, under the Energy Division of DBEDT, not only is this a more logical arrangement based on the testimony at your Committee's hearings, but it stands a much better chance of success because DBEDT is already collecting data and this would just provide additional data for the division to collect.

"With respect to the ethanol provision that has been discussed on the floor, this mandate is in this bill and frankly exists in existing law. What this mandate does is, it has a provision in the bill, page 12, line 9, which is not new language but provides discretion within DBEDT to implement this provision. I respectfully direct that this bill is about petroleum information, which is in the consumers' interest, and not ethanol and gasoline, and this challenge should be dismissed as irrelevant to this measure."

Representative Yoshinaga's additional remarks are as follows:

"I would like to propose a paradigm to you: The more that we know, the better decisions we can make.

"This is the paradigm that forms part of the basis of the First Amendment of the Constitution of the United States.

"This is the paradigm that underlies the success or failure of a democratic form of government.

"Eight years ago, the Legislature of our state discovered that they knew very little about the petroleum industry in our state. We knew who was doing business here, but now how or how much or when.

"At that time, Mazie Hirono was Chair of the House Consumer Protection Committee, and a proposal was put forward that oil companies doing business in our state make monthly reports on their inventories, their prices, and their other business activities. The information would be kept confidential, but the state would know how to better plan for emergencies, make strategic plans, and monitor a critical link in our economy.

"As I understand it, the authority for the Petroleum Information Reporting Act fell to the Public Utilities Commission, which never implemented it. Now, we're going to require the information once again, but this time under the Energy Division of the Department of Business and Economic Development and Tourism (DBEDT).

"Not only is this a more logical arrangement, but it stands a much better chance of success. In fact, in testimony before your Committee on Energy and Environmental Protection, DBEDT noted that it collects much of the information mandated by the Petroleum Reporting Act already.

"I ask the House to support this important information resource."

Representative Whalen then rose and stated:

"I rise in opposition to the bill before us that we're discussing.

"I'm not sure whether the statement comes from this current law, because if you look at the bill, we are enacting a new section. And the new section clearly states that the department shall adopt rules which will require gasoline to contain 10 percent of the ethanol, period.

"We are required to do that. There's an escape clause that Representative Yoshinaga mentioned -- although my concern is that it says: the Department may authorize the sale of gasoline.

"If you can't buy it, you can't get it; it's too expensive, with all these conditions. The Department still has the discretion to require every drop of gasoline to be 10 percent ethanol. When are we going to realize that

government controlling business is not the way to stimulate our economy, is not the way to get our businesses up and running?

"If this bill was about information, about finding out about the petroleum industry, I'm all for that. Why are we throwing in requirements about ethanol and giving the Department the power to basically strangle the gasoline industry here, which are already in deep enough dices as it is?

"Thank you."

Representative Ward then rose and stated:

"I rise in opposition with a footnote and a question as the last speaker ended on.

"As policymaker and those in this body charged with the purse strings of this State, when we succumbed that power to the Department of Business and Economic Development to, in effect, raise the price of gasoline exorbitantly because there is no ethanol in the State, are we not derelict in our duties to say that we will give a bureaucrat the ability to raise everyone's gas fees through this ethanol tax without us having anything to say?

"Mr. Speaker, that is a very shortsighted piece of legislation. I know we get them to raise their xerox copies by a couple of pennies, but to say that 10 percent of the gas is going to be subjugated to one decision maker in one little department of the State of Hawaii is to say that we are not taking our job responsibly and, at the same time, allowing a tax on the people without this escaping and putting our feet to the fire of being responsible for having made that decision.

"So it is not only flawed in terms of its concept of ethanol, but the way the Division of Labor, if you will, or the power structure that's in there, is very well ill-conceived.

"Thank you."

At 12:13 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 12:15 o'clock p.m.

Representative Chang then rose to speak in support of the bill, stating:

"As the introducer of this measure that we passed several years ago on the mandate of 10 percent ethanol in all gasoline sold in the State of Hawaii, it saddens me to see this debate here today because the original intent of the bill was a very good one.

"And that was to open the doors to ethanol developers who would be interested in opening up ethanol manufacturing plants in the State of Hawaii, considering our loss of sugar and our vacant lands in the sugar areas, especially on the Big Island.

"There were concerns by the petroleum industry that this would cause a big havoc on their industry, and the one concern that stood out was the idea that if ethanol was not produced in the State of Hawaii, then does that mean we would have to import our ethanol from other parts of the world to provide the 10 percent?

"And that's why a stipulation in the measure was put that only locally-produced ethanol, which would be unconstitutional, could not have been written in the bill. So that's why we made DBEDT the agency to regulate the

distribution of ethanol and they would be the prime determinate of whether we should include 10 percent ethanol in our locally-sold gasoline.

"Thank you, Mr. Speaker."

Representative Pendleton rose in opposition to the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Pendleton's remarks are as follows:

"Mr. Speaker, House Bill 1451, House Draft 1, is not a good bill. I oppose it.

"House Bill 1451 has burdensome requirements which will not benefit anyone. I am certain that the information required will be of little value to the customer. I am equally certain that there will be significant costs entailed by the reporting requirements. Given our economic climate, is this what we want to do? I think not. And so I vote no on House Bill 1451."

The motion was put to vote by the Chair and carried, and the joint report of the Committees was adopted and H.B. No. 1451, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PETROLEUM INDUSTRY," passed Third Reading by a vote of 39 ayes to 12 noes, with Representatives Aiona, Fox, Halford, Kawananakoa, Marumoto, McDermott, Meyer, Moses, Pendleton, Thielen, Ward and Whalen voting no.

Stand. Com. Rep. No. 1032 and H.B. No. 115, HD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 115, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Stegmaier rose to speak in support of the bill, stating:

"Just to say that this bill has to do with the continuation of support for the pilot Teen Court Program which diverts first-time offenders from the Juvenile Justice System.

"Mr. Speaker, I've seen the benefits of the Teen Court Program in youngsters I know who, after committing a petty crime, participated as jurors or attorneys or other court functionaries in the Teen Court Program and realized, only after this experience, the importance of being part of the solution rather than part of the problem.

"I want to commend State Superintendent Aizawa for using federal, safe and drug-free schools' monies to initiate the pilot program. And the Chairs of the Judiciary and Finance Committees for championing the continuation of this program, even in these dire economic times.

"Also, Mr. Speaker, special kudos to the Family Court judges and other law enforcement personnel who have volunteered their time and energy to act as mentors to students who are in this very valuable program.

"Thank you."

Representative Moses then rose and stated:

"I also rise in support of this bill and commend any efforts which might help our teens back on the road to be productive citizens. And I also would like to commend those judges and other court personnel who have devoted their own time and efforts to this program.

"Thank you, Mr. Speaker."

Representative Kahikina then rose and stated:

"I stand in support of the same measure and would like to add with what had been said. In Article 1, Section 2 of our State Constitution, it reads: 'All persons are free by nature and are equal in their inherent and inalienably rights.' Among these rights are the enjoyment of life, liberty, and the pursuit of happiness, and acquiring and possession of property. But these rights cannot endure unless the people recognize their corresponding obligations and responsibilities.

"This bill will teach our young people to fulfill those responsibilities, and I feel that it's in the right direction in addressing our youth problem."

Representative Goodenow rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Goodenow's remarks are as follows:

"Mr. Speaker, I have witnessed first hand the effectiveness of the Teen Court process and have been very impressed with the impact it has had on the young participants who have broken the law. My brother, Christopher Goodenow, a senior at Kaiser High School, has been an active participant in the Teen Court program as a volunteer.

"I would like to offer a few of his words in support of this measure: Teen Court is a combination of a brilliant idea, volunteer students, respondents and adult facilitators. The brilliant idea is that students learn about practically every aspect of the court process. Through Teen Court, student attorneys understand the basics of speaking to a large group of people, and how to talk about controversial topics in a formal, but convincing style. Jurors learn to be respectful in a courtroom, and in the presence of a judge. Additionally, all of the students learn how a trial is conducted, something that can only be learned by being there in person.

"One of the main objectives of this program is to insure that students don't repeat their offense. Statistics show that Teen Court has achieved this goal. The reason that amount of repeat offenders has dropped after attending Teen Court is simple, and one that has been overlooked for many years.

"Approximately half of the jurors in the program are former respondents (they come back to serve on the jury as part of their sentencing). These respondents see other cases, and give a sentence. This is both beneficial to the respondents on trial, and the jurors. The jurors have the opportunity to judge cases not unlike their own, and they are required to give sentences. Thus, the jurors learn the harm crime has on families and society, and that crime does not pay.

"As you can see, this program is well worth supporting. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 115, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE TEEN COURT PROGRAM," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 1033 and H.B. No. 119, HD 2:

By unanimous consent, action was deferred to the end of the calendar.

Stand. Com. Rep. No. 1034 and H.B. No. 143, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 143, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Arakaki rose to speak in favor of the bill, stating:

"I think that as policymakers, we tend to realize that some things are right and we know what to do, what needs to be done. In the case of consolidation of our housing functions, we knew a long time ago that we needed to consolidate our housing functions not just for the sake of the budget, but because we needed to look at redirecting our mission as far as the public purpose to providing more low-income housing and providing more special-needs housing, especially for the elderly and disabled.

"It's taken a lot to figure out how this is to be done, but I think what this bill -- and I want to thank the leadership and the Majority party for allowing this to become a priority -- I think we finally found a way, at least between the administration and the House, to accomplish this.

"I'm just hoping that as we pass this on to the Senate, that they can also see what really needs to be done and we can work together to developing a new housing agency."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 143, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Halford voting no.

Stand. Com. Rep. No. 1035 and H.B. No. 258:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 258, entitled: "A BILL FOR AN ACT RELATING TO THE CONVENTION CENTER," passed Third Reading by a vote of 51 ayes.

The Chair directed the Clerk to note that H.B. nos. 1196, 1208, 1451, 115, 143 and 258 had passed Third Reading at 12:34 o'clock p.m.

At 12:36 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 1:29 o'clock p.m., the Speaker resumed the rostrum.

Stand. Com. Rep. No. 1036 and H.B. No. 665:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 665, entitled: "A BILL FOR AN ACT RELATING TO THE CONVENTION CENTER," passed Third Reading by a vote of 49 ayes, with Representatives Meyer and Yonamine being excused.

Stand. Com. Rep. No. 1037 and H.B. No. 886, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 886, HD 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE EXPANSION OF THE HIGHER EDUCATION OUTREACH PROGRAM ON THE NEIGHBOR ISLANDS," passed Third Reading by a

vote of 49 ayes, with Representatives Meyer and Yonamine being excused.

Stand. Com. Rep. No. 1038 and H.B. No. 1210, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1210, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Yoshinaga submitted the following comments to be inserted into the Journal.

"I rise to speak in support of HB 1210, HD 2.

"The public interest is best served by seeking ways to achieve the long-term goal of reducing the level of air emissions in this state, while at the same time allowing for the development of new industries in order to stimulate Hawaii's lagging economy.

"The current air emissions of criteria pollutants at Campbell Industrial Park Area (CIPA) have reached the ceiling of federal Environmental Protection Agency standards. Therefore, no new plants can be built in the area without a commensurate reduction of existing facilities' air emissions. The objective of this measure is to find ways to reduce emissions such that it would allow new companies to operate in CIPA.

"When permits are issued, a company must show that it is installing the best available control technology (BACT) at that point in time. Older plants have older equipment with permits that were 'grandfathered in' which allow greater quantities of criteria pollutants.

"Such older companies have no incentive to reduce their current level of emissions, which would free up capacity on their permits, since they might need it for future expansion. There currently does not exist a way for an older company to transfer excess credits to another company. By permitting emissions credit trading, we would facilitate that objective.

"Let me assure you that this does not mean that it would allow an increase in air emissions, more than what is already allowed, as that would not be consistent with the federal Clean Air Act.

"Permit trading would allow a company the flexibility to trade emissions credits with another company instead of having to modify their own equipment, while maintaining the overall ceiling level of air emissions and air quality. This is particularly advantageous for those companies whose equipment is relatively new.

"HB 1210, HD 2, provides the Department of Health with the authority to review and assess the feasibility of establishing such an emissions reduction credit banking and trading program.

"This program, which has been successful on the mainland, strikes a balance between reducing emissions of air pollutants versus encouraging economic and industrial development in the state.

"Although this measure will not result in the overall reduction of air pollutants, it does permit the further development of existing industrial areas, as opposed to spreading out geographically into other areas of the state.

"Finally, I close by assuring you that controlling air emissions is a complex issue that needs further study. This bill may not hold the ultimate answer, but it is ultimately far more productive than the current punitive schemes or the selective enforcement.

"I strongly urge all members to vote in favor of this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1210, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AIR POLLUTION," passed Third Reading by a vote of 49 ayes, with Representatives Meyer and Yonamine being excused.

Stand. Com. Rep. No. 1039 and H.B. No. 1218, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1218, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Yoshinaga submitted the following comments to be inserted into the Journal.

"Mr. Speaker, I rise to speak in favor of HB 1218, HD 2.

"The idea that anyone in our state disposes of their wastewater by injecting it back into the ground is something I find to be a breach of trust, a breach of the basic respect that we all should have for the aina that sustains us.

"This is especially true today when we have the technology and the knowledge of how to properly treat wastewater and use it for alternative purposes.

"Water is our most precious resource. If I have any regret, it is that we have not given enough attention to the issue of water quality, which is something I fully intend to correct in the future.

"For the moment, this bill gives the DOH the resource base it needs to begin to address this problem. Like many other bills in my Committee, it is an initial step that is necessary now to build the legacy of environmental protection for our children.

"A focus group at the Energy and Environmental Summit of 1993 explored the issue of adequate funding levels and determination of proper funding sources for environmental programs. Until now, nothing has become of the findings of the summit, which I would like to insert into the journal here...

POLICY ON ALTERNATE FINANCING OF ENVIRONMENTAL PROGRAMS

The Federal government has imposed mandates upon the states requiring compliance with environmental laws. State laws and regulations must be at least as stringent as the federal mandate and require funds to administer. Therefore, the Federal government should provide funding to states to implement programs to implement federal laws. States, through their governors and Congressional delegations, should rigorously pursue federal funding to accompany federal mandates.

'Primacy' allows flexibility for states in the development and implementation of federally-mandated environmental programs to account for the variability of environmental conditions found throughout the nation. Otherwise, federal standards are applicable uniformly without consideration of unique circumstances. Ideally, therefore, State primacy should be maintained or pursued with federal funding support to cover the costs of an acceptable state program. State funding should be provided to augment federal funding to support a more stringent program, if necessary.

When federal funding is inadequate, state general funds should be appropriated to maintain or pursue primacy so as to support environmental programs that benefit the general public. For example, general funds should continue to be utilized for the monitoring of ambient water quality since this activity protects the users of the recreational waters and benefits the general public. Similarly, enforcement program activities and staff should be supported by State general funds because compliance with environmental rules, regulations and laws provide a generic benefit to the public by promoting a clean, healthy environment. Further, businesses, industries, and governmental agencies that perform responsibly and do not pollute the environmental agencies that perform responsibly and do not pollute the environment should not be asked to contribute to enforcement actions against those who violate environmental law. Similarly, the cost of quality assurance monitoring should also be borne by State.

Federal funds or state general funds are appropriate sources of funding for environmental education. The public benefits when individuals, businesses, and communities are involved more fully in protecting and enhancing our environmental resources and ecosystem. In addition, the use of general funds is appropriate to provide technical assistance to businesses and counties to enhance pollution prevention activities.

When state and federal funds are inadequate to support required State environmental program needs, costs must be shifted to the regulated community. Indeed, the regulated entity should bear the costs associated with the issuance of permits that benefit their activities. In this situation, alternate funding mechanisms (e.g. fees) should be developed to cover all costs attributable to the processing of environmental permits, including the review of permit applications, inspections and compliance monitoring. However, when the main beneficiary of such activity is the general public, then permitting and compliance monitoring may more appropriately be funded through the general fund.

The regulated community should also bear the cost for monitoring in situations where a state agency relieves the regulated entity of their responsibility for monitoring. This may be appropriate in situations where there is greater efficiency and cost savings resulting from a state agency conducting the necessary monitoring or analysis.

Alternate funding mechanisms have been adopted by many states to support their environmental regulatory requirements, and the national trend is to increase reliance on fees to support environmental program activities. However, the general public should realize that these costs will be transferred directly to them. Where fees or alternate funding mechanisms are assessed, they should be clearly identified so that the public knows what they are paying for when that is practical. Further, fees should be collected in the most efficient means possible to minimize the cost to the public.

Controls must be instituted to guarantee that the funds collected are utilized solely for those purposes for which they are intended. Therefore, it is appropriate to use a special, dedicated fund into which funds collected are deposited and spent accordingly. Special funds should be used to augment existing federal or state funds, not to replace these funds. Finally, such special funds and the fee structures which support them should be periodically reviewed by the Legislature to allow the public and all major stakeholders to review the

performance of such funding mechanisms and suggest improvements or modifications, as needed.

"It is high time that we take a closer look at what we learned from that summit to determine the best way to fund the state's water quality programs.

"In these times of falling state revenues, it is now imperative and appropriate to evaluate whether the assessment of fees on those industries and entities whose activities trigger the need for government regulation is a fair and equitable manner to raise sufficient funds to enforce environmental water quality laws effectively.

"This bill requires the Department of Health to evaluate the overall costs of running the water quality programs and determine the appropriate level of funding for our water quality programs.

"The DOH must also review, evaluate, and make recommendations on the current fee structure and recommend ways that user fees and other methods of funding could be used to finance and support the water quality programs.

"In these times of fiscal crisis, the state needs to continue its search to find ways to fairly and properly allocate the costs of regulation to those that require that regulation.

"Thank you, Mr. Speaker, for the opportunity to speak in favor of HB 1218, HD 2."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1218, HD 2, entitled: "A BILL FOR AN ACT RELATING TO WATER QUALITY," passed Third Reading by a vote of 49 ayes, with Representatives Meyer and Yonamine being excused.

Stand. Com. Rep. No. 1040 and H.B. No. 1463, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1463, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Abinsay rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Abinsay's remarks are as follows:

"Mr. Speaker, I rise to speak in support of this bill. Adult residential care homes provide important services to elderly citizens of the state, services that otherwise will have to be provided by the state itself. Care home operators have had no increase in reimbursement rate since 1989, despite inflation and the increasing costs of food, supplies, utilities, taxes, and other expenses. Care home operators deserve and increase to ensure the highest standards of care for the elderly and chronically ill.

"For this reason, I ask this honorable body to support the bill.

"Thank you, Mr. Speaker."

Representative Arakaki rose and stated:

"On the same measure, I do have some comments that I want inserted into the Journal." (The Chair "so ordered.")

"However, I just want to briefly remark that being your Chair on the Committee of Human Services and Housing

and serving the community that has many care homes, I can say that the reimbursement increases are not only well deserved, they're long overdue. In fact, the last time they did get an increase, it was when I first served as the Chair of the Human Services Committee. But I can tell all the members here that while it does involve an increase in general expenditure, I think the savings in terms of money saved from keeping the elderly and disabled out of institutions, make this measure well worth it, and I urge your support.

"Thank you, Mr. Speaker."

Representative Cachola then rose and stated:

"I'd like the remarks made by the previous speaker be recorded in the Journal as if they were my own," and the Chair "so ordered." (By reference only.)

Representative Cachola continued, stating:

"And also to add, Mr. Speaker, that most of those who are in this kind of business are in the same nationality as yours truly and Representatives Abinsay, Menor, Pendleton and Garcia. I just want to point out, Mr. Speaker, that this kind of job is not one of the things that others might want to do.

"This bill, providing for an increase in the rates, is long overdue and it's well deserved. I urge everybody to please vote on this measure.

"Thank you."

Representative Cachola's additional remarks are as follows:

"The \$50 increase per patient in reimbursements for care home operators is long overdue. Placement of patients in care homes offers the state a less costly alternative to institutionalization and gives patients a better living environment and a sense of being a part of the community.

"The current payment rate does not cover all of the food, lodging, and medical care costs of the patients, and this increase will alleviate much of the financial burden on the home operators. I urge my colleagues to vote in favor of this bill."

Representative Pendleton then rose and stated:

"I would need to disclose a potential conflict. I have numerous relatives who run such homes as this," and the Chair ruled "no conflict."

Representative Pendleton continued, stating:

"I just want to say that this is a long overdue raise in the reimbursement rate, and it is about time that we thought about saving money through this vehicle, especially in smaller settings where people get better care than the larger, more expensive institutional settings.

"Thank you, and that's why I support this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1463, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ADULT RESIDENTIAL CARE HOMES," passed Third Reading by a vote of 49 ayes, with Representatives Meyer and Yonamine being excused.

Stand. Com. Rep. No. 1041 and H.B. No. 1547, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1547, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Tarnas then rose to say a few words in support of the bill, stating:

"Mr. Speaker, this bill creates a five-year pilot program for community-based management of one or more of our State's small boat harbors. Because of the unfortunate mismanagement of Hawaii's harbors and our resulting loss of money, we're looking for better alternatives. I know that the department is now looking at possible private sector management.

"This bill, however, opens up the possibility for a community-based non-profit management group to be able to manage their own facility. The community is ready to meet this challenge. I'm confident that they will increase the revenue stream, increase boater satisfaction, and we then can be truly the world class marina facility that we can be.

"Thanks very much, Mr. Speaker, I hope we all can vote in support of this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1547, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SMALL BOAT HARBORS," passed Third Reading by a vote of 49 ayes, with Representatives Meyer and Yonamine being excused.

Stand. Com. Rep. No. 1042 and H.B. No. 1675, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1675, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HOISTING MACHINE OPERATIONS," passed Third Reading by a vote of 49 ayes, with Representatives Meyer and Yonamine being excused.

The Chair directed the Clerk to note that H.B. Nos. 665, 886, 1210, 1218, 1463, 1547 and 1675 had passed Third Reading at 1:31 o'clock p.m.

At 1:32 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 1:33 o'clock p.m.

Stand. Com. Rep. No. 1043 and H.B. No. 1721, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1721, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ELIGIBILITY FOR PAYMENT PROGRAMS," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 1044 and H.B. No. 1753, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1753, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HISTORIC PRESERVATION SPECIAL FUND," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 1045 and H.B. No. 1806, HD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1806, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Ward rose to speak against the bill, stating:

"Notwithstanding the levity by which you've started this post luncheon session, Mr. Speaker, this bill is a raid, and I don't mean a raid on the OK Corral, but a raid on the pension system.

"It's a raid on the State pension system that represents a lack of political courage that will do not the right thing, and will not cut government spending in a time of economic austerity. Instead, H.B. 1806 seeks to use bookkeeping gimmickry under the guise of standard accounting in order to balance the budget.

"This is the so-called double trigger mechanism, Mr. Speaker, that Mr. Anzai invented. If, as proponents of this bill argue, the concern is truly for conforming the ERS contribution formula with accepted government practices, then the question must be asked: Why now, Mr. Speaker, rather than 15 or 20 years ago when this was known and we were flush with cash?

"And why now, Mr. Speaker, when compared to other states that do not have \$1.2 billion of excess or unfunded liabilities, and also do not have an 8 percent excess earnings clause in their formula?

"The truth of the matter is, H.B. 1806 attempts to balance the budget on the back of retirees and on the next generation of taxpayers -- our children. And for the sake of our children, Mr. Speaker, this bill should not be allowed to pass.

"And as for Mr. Anzai's double trigger, Mr. Anzai's double trigger is cocked and ready to shoot our retirees with this bill, Mr. Speaker.

"Thank you."

Representative Moses then rose in opposition to H.B. No. 1806, HD 1, and stated:

"This bill is a raid on the State pension plan, but more specifically it's a raid on the unfunded liability of the system. HB 1806, HD 1, commonly called the double trigger as we've just heard, proposes to amend the funding method currently used in determining employer contributions to the ERS. It purports to achieve this change by switching to a five year moving average to determine employer contributions while still allowing the state and counties to pay, but to pay 10 percent in contributions each year so that at the end of 10 years, they pay nothing -- nothing to cover the earning shortfalls.

"The liability or unfunded pension benefit obligation is currently \$1.2 billion. Why is it this high, Mr. Speaker? It's because, for the last 20 years ending in 1995, over \$1.23 billion of the ERS's earnings have been used to pay for other state and county projects. How much would the current \$1.2 billion liability be if we had allowed the ERS to rightfully keep its earnings? Zero, nothing, no liability.

"House Bill 1806, HD 1, allows the State to wash its hands of any responsibility to ensure the plan's solvency and financial health completely in ten years. The State, which for decades has leached off the system to fund Ewa projects, is unwilling to meet its rightful obligation when economic times are tough. Nobody denies that the times

aren't tough now, Mr. Speaker, but this surely is not the way to enhance revenues.

"The State wants to change the rules when the rules no longer result in opportunities to raid the fund. Make no mistake, there's no free lunch here. Actually, the taxpayers of the State will pay sooner or later. I guess I'm having sticky fingers here as the State appears to have when it comes to raiding funds.

"This is a bad bill and it deserves to die. And every time we raid something now, we're going to pay for it in the future. We should have fiscal responsibility and not put off the hard times for future generations, but we should deal with it today. I'm voting no on this bill, Mr. Speaker."

Representative Thielen then rose to speak against the bill, stating:

"The Employees' Retirement System is the pension and retirement system for State and County workers. And those retired workers rely upon us to protect its integrity. A little background is necessary.

"There's a cost associated with providing benefits to 'X' number of employees who have worked 'Y' number of years and are expected to live 'Z' number of years. Actuaries determine the appropriate cost for which the system is obligated. So what's the problem?

"First, the ERS uses an antiquated method in determining its liabilities, the frozen initial liability formula. Those of you who have sat on the committee considering this bill must have heard some concerns about that method. Under this method, an estimate of the systems obligations is made for a single point in time and used every year thereafter without factoring in changes such as inflation, increased numbers of the retirees or the liberalization of benefits.

"Secondly, the Legislature is often asked to increase benefits without having the information necessary to determine what the additional costs of these benefits will be. When the State cut a deal with early retirees a couple of years ago, we were promised cost savings but no figures were provided and no cost benefit analysis were performed.

"Third, the ERS is underfunded. You've heard that through the years. According to the ERS 1996 annual report, the system's unfunded pension benefit obligation is \$1.2 billion. And a major reason for the underfunding is a statutory provision which allows or mandates excess earnings of the system to go into the general fund. In other words, like any prudent saver, instead of being able to retain the excess investment profits for the downturns in the economy, we instead mandate the ERS system to turn over those profits above 8 percent to the general fund.

"And finally, investment returns are dropping. Because we couldn't save for the day when investments would not bring in as much money, we now are in a downturn. ERS investments are lower than 8 percent, so what happens? Constitutionally, the state and counties are required to assure that the ERS meets its obligations. This really puts a hard burden upon the counties that have to come up with that money when they have such meager funds being given to them by their state government.

"This means that \$389 million in taxpayers money had to be spent shoring up the ERS from the general fund that year. And if investments continue to slide, the taxpayer

contribution will increase. And you have to recognize that this does play into the deficit that the state is facing.

"I have four suggestions of what we could do to correct this problem: Repeal the requirement that ERS earnings in excess of 8 percent be funneled to the general fund allowing the system to retain 100 percent of earnings effective immediately; require county representation on the ERS Board of Trustees. The counties are hit with our decisions, the decisions of the ERS Board, and they aren't represented, by mandate, on the ERS Board itself. Repeal the use of the frozen initial liability method in the determination of liabilities and require the use of the annual projected unit credit method. And finally, require the ERS to provide actuarial data and cost benefit analysis on all proposed changes to the ERS system.

"I think that these are sound recommendations and will go a long way toward making sure the ERS system retains its soundness, and that we don't continue to have to dip into the general fund because of underfunding the ERS system. We owe it to our retirees, Mr. Speaker."

Representative Thielen's additional remarks are as follows:

"Over the years I have voiced my concerns about the way that the State has diverted funds from the ERS to the general fund to pay for other projects in our budget. Today I am voicing my concern over the way that HB 1806, HD1, 'diverts' funds from ever reaching the system in the first place.

"HB 1806, HD1, commonly called the 'double trigger' bill, proposes to amend the funding method currently used in determining employer contributions to the ERS. It will achieve this change by negating something that the 1994 Legislature provided.

"Act 276, passed by the Legislature and signed into law in 1994, slowly allows the ERS to keep excess investment earnings to reduce the huge \$1.2 billion unfunded pension benefit obligation. Although we should have allowed the system to keep all its earnings immediately, rather than over ten years, at least this was a step in the right direction to addressing the unfunded liability that hung like an albatross around the necks of all taxpayers.

"HB 1806, HD 1, in effect says that now that our state has a stumbling economy which sets the stage for poor investment earnings, we want to change the rules and desert current and future retirees, to the detriment of future taxpayers. So we give with one hand and take back with the other. As the Administrator of the ERS has stated: 'When is the bleeding going to stop?'

"This bill represents a shortsighted approach to relieve the State's budgetary problems through financial engineering that creates a new problem by transferring a large and unfair tax burden to future taxpayers.

"We should vote no on HB 1806, HD 1."

Representative Say then rose in support of the bill, stating:

"The major purpose of House Bill 1806, House Draft 1, is to address the requirement that was initiated by the National Conference of Accountants. And this particular conformity was in regards to the Gazby 25 which said to the members of this House that you should incorporate your unrealized earnings with your realized earnings in your total investment portfolio.

"The first section of this measure addresses the conformity to the Gazby 25. Secondly, Mr. Speaker, in

the Administration's draft, it does talk about a five year average. Personally, right now any investment earnings that are reflected as excess or under-funded is a three average, whereby the Administration and the Finance Committee felt that a five year average will lower the volatility of determining what the median should be for five years in regards to your excess earnings or being under-funded as far as our eight percent.

"Yes, the speakers are correct, Mr. Speaker, that it does reduce the employers contribution by ten percent each year to make up the shortfall but, and I state for the audience here this afternoon, this is fair because the ERS keeps ten percent each year of the cumulative to the one hundred percent when excess earnings are realized. That is the trade-off. And that is what I would like to state for the record here this afternoon.

"And thirdly, for the members, yes, it is part of the Administration and the Committee on Finance's financial plans that it will save the State \$56 million for this coming year. Also, a fact that the counties will be also benefitting, as far as their contributions not being put into the pension accumulation fund, Mr. Speaker. And as we move along, I'll reflect the savings to the respective counties, trying to tie it in with another bill.

"Thank you very much."

Representative Moses then rose and stated:

"Hearing that the State will benefit and the counties will benefit, I must respond that the people of the State and the people of the counties will not benefit, only the government.

"Thank you, Mr. Speaker."

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

"Just very briefly, Mr. Speaker. According to the Budget and Finance testimony, current statute provides for a 10% a year increase beginning in fiscal year 1998 in the amount of excess earnings the ERS would be allowed to retain. Correspondingly, Mr. Speaker, the ERS should also absorb an increasing percentage of any shortfall.

"Mr. Speaker, currently excess earnings or earnings shortfalls are determined if realized earnings fall above or below the 8% yield rate. Realized earnings are comprised of interest and dividends plus net realized gains or minus net realized losses on sales of investments. Unrealized or book earnings are not considered, Mr. Speaker.

"On the other hand, hard total earnings consisting of realized and unrealized earnings are considered. For example, Mr. Speaker, in fiscal year 1995, realized earnings amounted to 6.19%, requiring the State to make up the shortfall below 8%, where the actual total earnings was 13.24%. It cost the State 1.18% or \$99.4 million where the ERS fund actually increased by 5.24% or \$288.4 million.

"Mr. Speaker, I also support this measure because I would like to use some of this \$56 million savings to fund some of the following projects: \$21 million for the community hospitals; \$1.2 million for PCNC; half a million dollars for a legislative analyst; \$9.2 million for the Department of Health Child and Mental Services; \$2.3 million to settle the claims against the State; \$100,000 for the Crime Hawaii Symposium; \$185,000 to help out the Hamakua Health Care System; and \$86,000 to fund the Hawaii Clearinghouse of Missing Children.

"Further, Mr. Speaker, \$2,436,000 to fund the Electronic Benefit Transfer System; half a million dollars for the Mental Health Insurance System; \$1.3 million for the ARCH Program; and \$4.3 million this fiscal year and \$6.2 million next fiscal year to provide services for the developmentally disabled.

"Thank you, Mr. Speaker."

Representative Ward then rose and stated:

"I think this is the first time, in terms of this floor, that I've ever heard budget tagging as I've just heard now, where when we actually have a savings and we know exactly where it's going to go.

"I thought the general fund was the general fund unless the previous speaker was referring to special funds which are actually earmarked for those particular things. However, having not tugged on my heart strings strong enough, I think we've sugarcoated what otherwise is, and forgetting in the long run, we've taken over a billion dollars out of the pension fund for the sake of State programs. That's the message.

"The message is, it's hard times now and if we even get in worst times, we're going to go like the Federal government with Social Security where they have six trillion dollars of unfunded liabilities. And, Mr. Speaker, six trillion dollars in 15 years is never going to be enough to meet the needs of the people of this country.

"We don't want this fund to turn into the Social Security fiasco, so I think it's great that the Majority is earmarking things of which we can make the \$56 million from the retirees look like its from motherhood and apple pie.

"In other areas, however, we're missing the point of that fund being drained for the sake of other than what its purpose was when it was formed in the beginning.

"Thank you, Mr. Speaker."

Representative Pendleton rose in opposition to the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Pendleton's remarks are as follows:

"Mr. Speaker, I oppose House Bill 1806 because of the provision on the second page of the bill. If you refer to line 19 and following, you see that this is really what could be termed as a raid on the fund. To the extent that such an action may jeopardize or put at risk the retirements of those who have so ably served our State, I am in opposition."

Representative Yonamine rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Yonamine's remarks are as follows:

"Mr. Speaker, I rise to speak in support of H.B. 1806, HD1. I recognize the Finance Chair's need for as many options as possible in dealing with the budget shortfall that exists and sees this bill as one such option. And in this crisis year, as in other years, the Finance Chair and the Committee have made courageous, objective and necessary decisions to balance the budget.

"State revenues continue to decline as the economy continues to languish in the slump we have been experiencing for the past four years. As a result, we must remain open to all options for making up the existing

budget shortfall. Furthermore, as you know, beginning in FY 1995 the excess investment earnings provision related to the Employee Retirement System will be gradually eliminated by 10% per year. Under the total earnings provisions of this bill this will increase the general fund cost by an additional \$55.4 million in FY 1999. It is for these reasons that I speak in support of this bill.

"Mr. Speaker, I would, however, like to offer a word of caution about future fiscal decisions. By passing this bill we are in effect 'raiding' the pension fund and its beneficiaries to address the current financial crisis. In 1995, the ERS fell short of the 8% target and earned only 6.19%. By law, the state and county governments must make up a \$99.4 million shortfall. This bill changes the statutory funding formula so that the state and counties' obligation to make up the \$99.4 million investment shortfall will be erased.

"It is vital that we safeguard the assets of the ERS for future retirees. Whenever we change the formula to calculate the state and counties' contributions to the ERS pension accumulation fund -- and in turn initiate a reduction in those contributions -- we reduce the dollars available for it to invest. This will seriously jeopardize the fund's long-term viability for future retirees of the system.

"As one opponent of the bill testified, this is a 'band-aid' approach to addressing the state's budget problems. This should not be perceived as a long-term approach to resolving the state's budgeting concerns. To do so would create a funding crisis in the Employees' Retirement System on the order of the Social Security System. Let us not allow this to become a precedent for future raids on the Employees' Retirement System. Let us instead be certain to use this bill as intended -- as a one-time move to relieve the budget shortfall."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1806, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PENSION AND RETIREMENT SYSTEMS," passed Third Reading by a vote of 43 ayes to 8 noes, with Representatives Halford, Kawanakoa, McDermott, Moses, Pendleton, Thielen, Ward and Whalen voting no.

Stand. Com. Rep. No. 1046 and H.B. No. 1829, HD 3:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1829, HD 3, entitled: "A BILL FOR AN ACT RELATING TO FEES COLLECTED BY THE DEPARTMENT OF HEALTH," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives McDermott and Whalen voting no.

Stand. Com. Rep. No. 1047 and H.B. No. 1841, HD 3:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1841, HD 3, entitled: "A BILL FOR AN ACT RELATING TO HEALTH PLANNING," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 1048 and H.B. No. 1860, HD 3:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1860, HD 3, entitled: "A BILL FOR AN ACT RELATING TO

DEGREE-GRANTING INSTITUTIONS," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 1049 and H.B. No. 2202, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2202, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CAPTIVE INSURANCE COMPANIES," passed Third Reading by a vote of 51 ayes.

Stand. Com. Rep. No. 1050 and H.B. No. 2229, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, Stand. Com. Rep. No. 1050 and H.B. No. 2229, HD 2, entitled: "A BILL FOR AN ACT RELATING TO GAMING," were recommitted to the Committee on Finance, with Representative Yonamine being excused.

The Chair directed the Clerk to note that H.B. Nos. 1721, 1753, 1806, 1829, 1841, 1860 and 2202 had passed Third Reading at 1:52 o'clock p.m.

Representative Whalen then rose and stated:

"I would like to speak just for a few seconds on my opposition of. . .

The Chair responded:

"We've completed page 20, we are going on to page 21. We have not made a motion yet on this page, Representative Whalen."

Representative Whalen then stated:

"What I'm saying is, you went by so quickly, I didn't get a chance to stand up and at least explain my. . .

The Chair stated:

"I'm sorry, I have to call you out of order, Representative Whalen."

At 1:53 o'clock p.m., Representative Thielen asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 1:56 o'clock p.m.

Stand. Com. Rep. No. 1051 and H.B. No. 2239, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2239, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Case rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Case's remarks are as follows:

"Mr. Speaker, I rise in support of HB 2239, HD2, which proposes to clarify and confirm the factors to be considered by the Public Utilities Commission in addressing whether to place new electric transmission lines of 138kv or greater overhead or underground.

"Mr. Speaker, the legislative findings in section 1 of this bill adequately set forth the major problems we face

with respect to such lines. Essentially, with the public utilities continuing to advocate the construction of these lines, often on huge and highly visible pylons one hundred or more feet high, insufficient consideration is being devoted by the PUC to the direct and indirect effects on our environment, economy and public health from the overheading of such lines. In other words, the case for undergrounding is not being made or applied.

"It is not too late to do what we should be doing for the sake of our environment, economy and public health, and what we already require be done, for example, along major thoroughfares in central Honolulu and within the jurisdiction of the Hawaii Community Development Authority, and that is to underground those lines. This bill requires the PUC to abandon the short-term, restrictive evaluation of overheading versus undergrounding followed thus far and address this question utilizing broader and more expansive, realistic, long-term, imaginative and responsive criteria. Applied in good faith, the result should be a clear preference for undergrounding.

"Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2239, HD 2, entitled: "A BILL FOR AN ACT RELATING TO UTILITY LINES," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Hiraki and Takumi being excused.

Stand. Com. Rep. No. 1052 and H.B. No. 101, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 101, HD 2, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Hiraki and Takumi being excused.

Stand. Com. Rep. No. 1053 and H.B. No. 177, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 177, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HURRICANE RELIEF FUND," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Hiraki and Takumi being excused.

Stand. Com. Rep. No. 1054 and H.B. No. 264, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 264, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS FOR THE WILCOX HEALTH SYSTEM," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Hiraki and Takumi being excused.

Stand. Com. Rep. No. 1055 and H.B. No. 650, HD 3:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 650, HD 3, entitled: "A BILL FOR AN ACT RELATING TO MENTAL HEALTH AND ALCOHOL AND DRUG ABUSE TREATMENT INSURANCE BENEFITS," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Hiraki and Takumi being excused.

Stand. Com. Rep. No. 1056 and H.B. No. 817, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 817, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Hiraki and Takumi being excused.

Stand. Com. Rep. No. 1057 and H.B. No. 1699, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1699, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII CAPITAL LOAN PROGRAM," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Hiraki and Takumi being excused.

The Chair directed the Clerk to note that H.B. Nos. 2239, 101, 177, 264, 650, 817 and 1699 had passed Third Reading at 1:57 o'clock p.m.

Stand. Com. Rep. No. 1058 and H.B. No. 1805, HD 2:

By unanimous consent, action was deferred to the end of the calendar.

Stand. Com. Rep. No. 1059 and H.B. No. 2232, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2232, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Yoshinaga submitted the following comments to be inserted into the Journal:

"Mr. Speaker, I rise to speak in favor of HB 2232.

"I will concede to this House that this bill is not in the form I might have liked. It is, however, a good bill that reflects the best qualities of our legislative process.

"We have heard the complaints of our citizens who say they are plagued with odors and noxious air.

"We have heard the response from industry who are all in 'full compliance' with their permits.

"We have heard from the DOH environmental management group which says that (except for the volcano on the Big Island) our air pollution levels have not reached levels that threaten human health or the environment.

"In this bill, we are seeking solutions based on scientific data. We are asking DOH to measure, evaluate, and then report to us the reality of air quality on the Ewa plain of Oahu.

"Through this bill, we are saying that we are not going to make hasty or ill-advised decisions which could further weaken our economic climate.

"Through this bill, we are saying that we trust the scientific process.

"Our quality of life is affected by the quality of our air. This was brought to the public's attention last year with the release of sulfur dioxide that caused illness in residents surrounding the Campbell Industrial Park Area (CIPA). Notwithstanding the fact that this was an unplanned or 'accidental' release, it drew public attention to the need for coordination and control strategies for air

emissions with recognition of long-range impacts of pollutants.

"Our environmental goal is to take a proactive stance with respect to air quality standards for the state without taxpayer expense. This bill is the first step in formulating our air pollution abatement plans for the future and it certainly is not the last. We shall continue to work on this issue with the interested parties and continue to search for innovative solutions.

"We need to keep in mind that there are no quick fixes to this problem. We need to make plans now that will safeguard our future and the future of our children and grandchildren. We need to leave a legacy to protect our precious environment before we hit a crisis as it will be too little and too late.

"It is in the public interest to seek ways to achieve the long-term goal of reducing the level of air emissions in this state, while at the same time allowing for the development of new industries in order to stimulate Hawaii's lagging economy.

"Through this bill, we are saying that we do care about air quality in Hawaii, and that we are committed to finding solid answers to some of the most pressing and evasive questions before us.

"I urge all members to vote in favor of this bill. Thank you very much for the opportunity to comment, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2232, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AIR QUALITY," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Hiraki and Takumi being excused.

Stand. Com. Rep. No. 1060 and H.B. No. 1904, HD 3:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1904, HD 3, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Hiraki and Takumi being excused.

Stand. Com. Rep. No. 1061 and H.B. No. 1433, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1433, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Hiraki and Takumi being excused.

Stand. Com. Rep. No. 1062 and H.B. No. 2082, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2082, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PLANNING AND COMMUNITY DEVELOPMENT," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Hiraki and Takumi being excused.

Stand. Com. Rep. No. 1063 and H.B. No. 33, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 33, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Hiraki and Takumi being excused.

Stand. Com. Rep. No. 1064 and H.B. No. 102, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 102, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Yonamine submitted the following comments to be inserted into the Journal:

"Mr. Speaker, I speak in favor of this bill.

"This is Workers Compensation Reform III.

"The purpose of this bill is to allow the utilization of Coordinated Care Organizations (CCO) to furnish medical care, services and supplies to injured workers. The concern with coordinated care or managed care is the unregulated delivery of care by companies or organizations driven more by the bottom line rather than the quality of care. HB No. 102, HD 2 will establish the regulatory structure for Coordinated Care Organizations entering the Hawaii market so we can avoid the notorious practices encountered on the mainland.

"The bill establishes strict standards for the CCO's to promote the delivery of high quality care for injured workers. It requires CCO's to be certified by the Department of Labor and Industrial Relations (DLIR) using the criterion established by the bill, with biennial recertification. The bill requires CCO's to:

1. Establish quality and treatment standards with treatment protocols and utilization guidelines based on customary medical practices;
2. Provide a list of health care providers providing services under the CCO, and not to exclude any category of health care providers in addition to providing access to an adequate number of each category of providers;
3. Provide quality assurance evaluation and peer reviews of health care providers;
4. Provide incentives to reduce costs without sacrificing the quality of care;
5. Provide access to workplace safety and prevention programs; and
6. Provide access to return to work and vocational rehabilitation programs.

"HB No. 102, HD2, provides for client input to ensure quality of care by involving injured workers in surveys of customer satisfaction and requiring reporting of customer complaints of a CCO's service.

"It seeks to provide an injured employee choice of provider by requiring a CCO to provide the injured worker with a choice among a number of health care providers from the various categories of health care providers. It allows an injured worker to receive immediate emergency medical treatment from a non-CCO provider, and further provides that an injured worker may receive care from a family physician, a doctor who maintains the injured worker's medical records or with whom the injured worker has a documented history of

treatment, provided that the doctor complies with the guidelines and treatment protocols of the CCO. If an employee chooses not to use a CCO plan, that employee will receive care under the current treatment guidelines and fees schedule.

"An employer may offer its employees a choice among CCO's to increase the choice among health care providers and physicians, and other health care providers may contract with more than one CCO, further increasing employee choice. The bill provides for the selection of 'one or more CCO's.' While requiring choosing 'two or more' may increase choice even further, such a requirement may be too costly for smaller employers, those with less than 20 employees.

"The bill excludes CCO's from the medical fees schedule in section 386-21, and allows CCO's to negotiate fees for services. In its 1995 report, the Department of Labor and Industrial Relations recommended excluding CCO's from the medical fees schedule believing that '...the non-regulated model is the more workable, and would provide a more competitive environment.' The Department reported that under a negotiated model, creative incentives are often negotiated to facilitate the provision of 'reasonable and necessary health care services to the injured worker.'

"HB No. 102, HD2, requires CCO's to establish an internal dispute resolution process. It provides that if a dispute arising from a quality assurance review, peer review, or from medical treatments not covered under established protocols and treatment guidelines, cannot be resolved within two weeks, any party to the dispute can request the Department of make a final decision on the matter. In its 1995 report, the Department recommended that CCO's be required to 'establish time sensitive internal review and dispute resolution processes with government intervention mandated for situations where the internal review and dispute resolution process fails.' It recommended that those processes be necessary only for those situations outside of established protocols and treatment guidelines. Any party of the dispute may appeal the decision of the Department of Labor and Industrial Relations Appeals Board.

"The confidentiality provisions of HB No. 102, HD2, have to be further reviewed and, if necessary, changes have to be made in the Senate or in Conference Committee, should the measure be passed by the Senate.

"In conclusion, HB No. 102, HD2, will establish strict standards for the delivery of medical care to injured employees through Coordinated Care Organizations. It will regulate CCO's entering the Hawaii market to insure quality care and preserve the employee's choice.

"This bill is the result of two years of hard work, extensive planning and intensive work, collaboration, and consultation among the representatives of HMO's, great majority of public and private unions, corporations, small businessmen, health providers, and individuals.

"I want to commend Vice Chair Nakasone, the Labor Committee members, the Chair of CPC and the Committee, and the Chair of JUD and their members for their strong support of this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 102, HD 2, entitled: "A BILL FOR AN ACT RELATING TO COORDINATED CARE ORGANIZATIONS," passed Third Reading by a vote of 42 ayes to 6 noes, with Representatives Hamakawa, Lee, Morita, Saiki, Takai and Takamine voting no, and

Representatives Arakaki, Hiraki and Takumi being excused.

Stand. Com. Rep. No. 1065 and H.B. No. 120, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 120, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELDERLY CARE," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Hiraki and Takumi being excused.

Stand. Com. Rep. No. 1066 and H.B. No. 137, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 137, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE EAST-WEST CENTER," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Hiraki and Takumi being excused.

The Chair directed the Clerk to note that H.B. Nos. 2232, 1904, 1433, 2082, 33, 102, 120 and 137 had passed Third Reading at 1:58 o'clock p.m.

Stand. Com. Rep. No. 1067 and H.B. No. 167, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 167, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Abinsay rose to speak in support of the bill, stating:

"Mr. Speaker, traumatic brain injury is the leading cause of death and disability in children and young adults. One-half of all traumatic brain injuries are caused by motor vehicle accidents and traumatic brain injury is very expensive to treat. The public must be educated about the consequences of brain injury in order to prevent such injuries.

"And this bill, creating an advisory board in the Department of Health, will hopefully address that.

"Thank you, Mr. Speaker."

Representative Whalen then rose in opposition to the bill and stated:

"I had logged the purposes of the bill and it isn't an appropriate function that we're trying or goal that we're working towards. However, my concern is, we're constantly hearing about price, reducing the cost of government, where we're going to raise the money from. Here, the testimony was clear in the committee, that the private industry is already doing this voluntarily without any cost to state government.

"I'm not sure why we're trying to do our own panel, why we don't simply look at the results of these professional people who have come across with their recommendations, and why we have to establish our own panel to redo the work that's already been done. My suggestion is that we simply adopt what they're doing and save us a few dollars here and there across the board; eventually it'll start adding up.

"Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 167, HD 2, entitled: "A BILL FOR AN ACT

RELATING TO TRAUMATIC BRAIN INJURY," passed Third Reading by a vote of 47 ayes to 1 no, with Representative Whalen voting no, and Representatives Arakaki, Hiraki and Takumi being excused.

Stand. Com. Rep. No. 1068 and H.B. No. 646, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 646, HD 2, entitled: "A BILL FOR AN ACT RELATING TO DEVELOPMENTAL DISABILITIES," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Hiraki and Takumi being excused.

Stand. Com. Rep. No. 1069 and H.B. No. 701, HD 1:

On motion by the Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 701, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL SECURITY ATTENDANTS," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Hiraki and Takumi being excused.

Stand. Com. Rep. No. 1070 and H.B. No. 867, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 867, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Hiraki and Takumi being excused.

Stand. Com. Rep. No. 1071 and H.B. No. 1023:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1023, entitled: "A BILL FOR AN ACT RELATING TO THE SECONDARY SCHOOL STUDENTS CONFERENCE," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Hiraki and Takumi being excused.

Stand. Com. Rep. No. 1072 and H.B. No. 1329, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1329, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Moses rose to speak in support of the bill, stating:

"This is the Molokai to Maui boat service and while I feel very strongly that the people on Molokai need some assistance, I think the assistance that they should get would be help in the generation of economic bases on the island so they could earn a living there instead of having to leave.

"I understand they need the ferry also to go to school events and shopping and such and that is fine. But what I'm concerned about is the last year that there was a ferry service, I understand there were only about 26 people. Actually, the last year there were only about 18 people a day average, earlier it was up to 26 people.

"We heard, in testimony on this bill, that approximately 40 people would use the ferry to go to their jobs and then maybe another 20 to even 40 would be involved in the ferry service itself. But of the 40 that are going from Molokai to Maui for jobs, or taking away those 40, still leaves over 300 on Molokai that are unemployed.

"My point, Mr. Speaker, is, we're not doing anything about the problem on Molokai. We're trying to throw them a bone and let a few of them go to a job on another island. And I think that the State and DBEDT should be investigating what they can do to better use our resources, which are very limited, to help the people where they need it the most on Molokai. So with that I vote with reservations but I support the measure.

"Thank you."

Representative White then rose and stated:

"I certainly appreciate the support of my colleague from Ewa for the Molokai boat service.

"Molokai is certainly one of the more economically challenged areas in our State and it needs, as he states, a lot of work to develop jobs on the island but, at the same time, this boat service is to provide access to not just Maui jobs, but access by visitors to Molokai.

"One of the things that has taken place and has gotten very little focus during the debate is the number of jobs that were lost within businesses on Molokai because the visitors are no longer coming over. So this is a bill that hopefully will help get people to jobs on Maui if we cannot create them on Molokai. It would help get visitors back to Molokai to support the mule ride and the various other businesses on the island, and it would again provide the access to Maui sporting events and seniors events for the people who, without the boat service, are somewhat isolated.

"I would like to point out, for the record, that this bill, while it does not include the measure, was supposed to include a cost sharing between the state and the county government. And with a dollar for dollar match with the State's spending monies, only if matched by the county, I ask my colleagues to please support this measure."

Representative Meyer then rose in strong support of the bill, stating:

"Through DBEDT there was, for at least three years, \$100,000 spent on the island of Molokai for economic development, and that \$100,000 went to two gentlemen who were supposed to create jobs. And I really question how that money was spent. But the \$300,000 that was previously subsidized by the State for this ferry was only 30% of the cost.

"Now with this bill, as the Representative from Maui has said, the County would be required to match, so that would be \$150,000 spent by the State and there's testimony in support of this from two councilmen from Maui. Aside from the jobs that people would gain by going to Maui, there have been easily 30 jobs lost in Molokai that were related to this transportation. And it would be so good for the morale of the people on Molokai.

"Since the ferry stopped, it's as if they'd been cut off. It was reasonably priced transportation. And I think you'd have to have the morale and the fight if you're going to do something for yourself and this would do that. And so I'm in strong support of this bill.

"Thank you, Mr. Speaker."

Representative Fox then rose in opposition to the bill and stated:

"Basically, this was sold in Finance as a tourist promotion measure that would allow people to go from

Maui to Molokai and participate in tourist activities there. Representative Moses is right, there were only 25 people using this ferry for work when it closed down in 1996.

"I think the tourist money would be better spent to get people to visit Molokai and stay overnight rather than take a day trip on a ferry.

"Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1329, HD 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO ASSIST THE OPERATION OF A MOLOKAI TO MAUI BOAT SERVICE," passed Third Reading by a vote of 47 ayes to 1 no, with Representative Fox voting no, and Representatives Arakaki, Hiraki and Takumi being excused.

Stand. Com. Rep. No. 1073 and H.B. No. 2008, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2008, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Goodenow rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Goodenow's remarks are as follows:

"Mr. Speaker, I am very happy that this bill is moving forward to the Senate. I would like to commend the Waimanalo residents supporting this measure who have done an excellent job researching, lobbying, and testifying. I am proud to be associated with this bill and the fine people behind it.

"This measure would provide for the residents of the Hawaii Housing Authority project on Humuniki Street to become home owners. The original Housing and Urban Development project incorporated the concept of home ownership, and this option is still available.

"Unfortunately, because it is not clear whether the land under the project is ceded land or regular state land, the Hawaii Housing Authority has been unable to even consider the possibility of selling or leasing the property. The purpose of this bill is to allow for the Hawaii Housing Authority, the Office of Hawaiian Affairs, and the residents association to work together to find a solution that is acceptable to all parties. I urge all of my colleagues to vote for this measure.

"Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2008, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Hiraki and Takumi being excused.

Stand. Com. Rep. No. 1074 and H.B. No. 30, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 30, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HURRICANE INSURANCE," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Hiraki and Takumi being excused.

The Chair directed the Clerk to note that H.B. Nos. 167, 646, 701, 867, 1023, 1329, 2008 and 30 had passed Third Reading at 2:07 o'clock p.m.

Stand. Com. Rep. No. 1075 and H.B. No. 140, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 140, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Ward rose and stated:

"I rise in opposition to the campaign spending law, HB 140.

"Mr. Speaker, if we have campaign spending limits, we should say that they are limits and not say that if you have a loan, that you call it a contribution, or you call your contributions loans, that there is no limit to what you can take in. I think there's a real flaw in this, there's a big puka you can drive a truck through it. And the remainder of my remarks, if I may put them into the Journal," and the Chair "so ordered."

Representative Ward's comments are as follows:

"Although this bill is a good first step forward, the people expect more than baby steps in this area. Unpaid loans from special interests constitute a serious threat to the impartial conduct of this body.

"Under this bill, a candidate could run twice for the House of Representatives with only loans, never repay them, and suffer no consequences.

"The Campaign Spending Commission, simply through their own delay, could make it impossible to punish violators afterwards.

"The question is: Do we have campaign spending limits or not?

"This bill says we don't have them - and that's why it's not worth all the rhetoric you shout all over this issue."

Representative Thielen rose to speak against the bill, stating:

"Mr. Speaker, the bill originally started out to be a fine bill clarifying some statutory language and just insuring consistency with changes that were made in 1995; however, in the Judiciary Committee, there was a change that was made which I think is really bad public policy. It gives a candidate or an elected official five years to repay a loan.

"There's a landmark Supreme Court case, United States Supreme Court case Buckley vs. Vallejo and it states that there is a compelling governmental interest in limiting campaign contributions. In other words, Mr. Speaker, we didn't need to create this new loophole by having a five year loan period -- repayment of loan period.

"The Supreme Court went on to say that the compelling government interest includes the prevention of corruption, the appearance of corruption, the real or imagined coercive influence of large financial contributions on candidates positions and on their actions if elected to office. And the desire to mute the voices of affluent persons and groups in the election process, and thereby, to equalize the relative ability of all citizens to effect the outcome of elections.

"And fifth, to act as a break on the skyrocketing costs of political campaigns and thereby serve to open the

political system more widely to candidates without access to persons with large amounts of money.

"The amended bill adds to the problem, it doesn't solve the problem. And it was well pointed out in an article in the Honolulu Advertiser by reporter Angela Miller of the difficulties with this law. That according to Robert Watada of the Campaign Spending Commission, if candidates win, now that they have to pay back a large loan, they may be in the position of selling votes he said. If they lose, they will just walk away without repaying the loan.

"Limiting repayment of the loan to the same election period, that same two year election period, will dissuade acceptance of large loans that are rarely repaid and could be forgiven by the lender. I think it's in everyone's best interest in maintaining the integrity of this process to say that any candidate's loan must be repaid within that election period. Thereby, I think we preserve the integrity of the election process. Unfortunately, this bill goes the wrong way.

"Thank you."

Representative Tom then rose and stated:

"I'd just like to make a brief response to the previous speaker.

"I'm speaking in favor of the bill. I want to point out, Mr. Speaker, that before we're making this amendment, there's been no time limit on loans, so we never have had a time limit in the past of repayment. At that time, loans were very loosely used and there was a loophole. Now, there is a time limit.

"And really, when you get down to it, Mr. Speaker, for us as Representatives -- for myself and I'm sure for most of us -- this is not going to affect us. We're here, we're Representatives, we get campaign contributions. This new loan definition or loans, per se, is to help new candidates. It's to help people to come into the process who really don't have contributions. They have to depend on friends, people who support them, for loans. It's not going to help us, not really.

"I would like to take away any aspersions of what we did or what I did may have helped me personally or may have helped any of us trying to get around the campaign contribution laws. It doesn't affect us. We're Representatives, we go by contributions, we're going to receive contributions.

"What the bill tried to do initially was treat a loan like a contribution and subject it to the same limits. That's not fair. A loan is a loan, a contribution is very different. To make a person have to pay it back within that period -- are you really helping fresh young people who want to run for office with no means of getting monies to run? It's a very expensive and very tough process.

"So I ask all of you, please vote up on this bill. And remember, it's not just to help any individual here, it's to help the whole political process, especially for the newcomers who come into the process.

"Thank you very much."

Representative Fox then rose and stated:

"On the same bill, I'd like to be recorded as a yes, with reservations," and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 140, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," passed Third Reading by a vote of 44 ayes to 2 noes, with Representatives Thielen and Ward voting no, and Representatives Aiona, Kahikina, Marumoto, McDermott and Saiki being excused.

Stand. Com. Rep. No. 1076 and H.B. No. 183, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 183, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SPORTS," passed Third Reading by a vote of 46 ayes, with Representatives Aiona, Kahikina, Marumoto, McDermott and Saiki being excused.

Stand. Com. Rep. No. 1077 and H.B. No. 376, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 376, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SEARCH AND RESCUE COSTS," passed Third Reading by a vote of 46 ayes, with Representatives Aiona, Kahikina, Marumoto, McDermott and Saiki being excused.

Stand. Com. Rep. No. 1078 and H.B. No. 651, HD 3:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 651, HD 3, pass Third Reading, seconded by Representative M. Oshiro.

Representative Abinsay rose to speak in support of the bill, stating:

"This bill allows State licensed social workers, in addition to State licensed physicians and psychologists, to provide mental health and substance abuse treatment to patients who are not already being cared for by a physician or psychologist.

"In doing so, this bill will lower the cost of mental health and substance abuse services as well as improve access to these services, because social workers' services cost less than comparable services by that person's psychologist, and because the social workers service networks allow them to reach patients in far-flung areas.

"Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 651, HD 3, entitled: "A BILL FOR AN ACT RELATING TO MENTAL HEALTH AND ALCOHOL AND DRUG ABUSE TREATMENT INSURANCE BENEFITS," passed Third Reading by a vote of 46 ayes, with Representatives Aiona, Kahikina, Marumoto, McDermott and Saiki being excused.

Stand. Com. Rep. No. 1079 and H.B. No. 667, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 667, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Fox rose to speak in favor of the bill with reservations, stating:

"This bill relates to setting up an authority to look at the proposals for a people mover. I think what we're looking for is for the private sector to pay for this thing,

and I have some concerns about the bill that's before us today.

"Just briefly, this is to get the flavor of the bill. On page 12: if private sector funds are not available, the department shall examine the possibility of using nonpublic sources of funding; on page 15, line 18: provided that the system shall revert to the ownership of the State; page 16, line 2: the State may participate in the sharing of revenues; page 19, line 2: shall provide for private ownership provided that upon the reversion of the system to the authority after completion of that period, certain steps shall take place. This looks like a bill to operate a transfer proposal which would leave the system in the hands of the public sector at the end of the time that the system is in the hands of the private sector.

"I think therefore, in sum, that we have certain provisions in this bill that suggests we're not quite clear on whether this should be a completely private system, and some concerns that this may end up in the lap of the public sector if we are not careful about how we handle the process. So that's the concern I raise.

"Thank you."

Representative Chang then rose to speak in support of the bill, stating:

"This bill would establish a people mover authority to issue a request for proposals for a private developer to invest private funds for planning, construction and equipment for a people mover system to assist our residents and visitors, especially our conventioners, to move in and around Waikiki and certain parts of Honolulu.

"This, Mr. Speaker, is a prime example of a private-public partnership working together for the good of the people of Hawaii. A people mover system will not only help to alleviate part of our traffic congestion, but provide hundreds of jobs for our residents for years to come. And again, this is like our Governor's billion dollar CIP plan to kick-start our construction industry. The only difference and the big difference is, this construction dollars, maybe up to half a billion dollars, will not affect our bond rating and will not be paid by our taxpayers."

Representative Suzuki then rose and stated:

"On this same measure, Mr. Speaker, I speak in favor of the bill and I'd like to have my comments inserted, but I'd like to summarize," and the Chair "so ordered."

Representative Suzuki continued, saying:

"This bill continues exploration of the use of public-private partnerships to enhance the State's ability to attract private capital that will promote a higher quality life through an efficient privately-financed infrastructure system.

"Mr. Speaker, although the appropriation section is blank, I hope the tremendous economic and quality-of-life benefits of a people mover system's construction and operation will justify the \$50,000 to \$100,000 necessary for the authority to prepare the RFP for a system estimated to cost between \$350- to \$600 million in nongovernment financing.

"Thank you, Mr. Speaker."

Representative Suzuki's additional remarks are as follows:

"This bill will foster the economic, social, and environmental well-being of the Waikiki area from Kapahulu Avenue to Atkinson Boulevard if the Authority is successful in attracting a contractor to plan, build, and operate a people mover system. This direct benefit to Waikiki will also directly promote the economic viability of our tourist industry.

"This bill continues the exploration of the use of public-private partnerships to enhance the States ability to attract private capital that will promote a higher quality of life through an efficient privately-financed infrastructure system.

"Mr. Speaker, although the appropriation section is blank, I hope that the tremendous economic and quality-of-life benefits of a people mover system's construction and operation will justify the \$50,000 to \$100,000 necessary for the Authority to prepare the RFP for a system estimated to cost between \$350- to \$600 million in nongovernment financing.

"Thank you, Mr. Speaker.

Representative Cachola then rose to speak in strong support of the bill, stating:

"Being the introducer of this bill, the intent was really for private sector funding. If there be any public sector funding, that it should be very minimal. And the reason why I said that we should strongly support this is because of some of the statements made by my colleague in terms of economic opportunities and the amount of monies to be generated out of the construction of this people mover.

"My concern is practically the same as my colleague from the other side of the aisle. And I made this point when I appeared before the Finance Committee, that creating a people mover authority might not be the right thing to do. And the reasons are as follows: When you put up your Hawaii Convention Center Authority, it's because the State is the one operating the Convention Center. Stadium Authority is the same thing; we operate a Stadium Authority. The Transit Authority in the City and County of Honolulu is the same thing because they are operating a bus system and therefore there's a need to create an authority.

"Under this bill, when we create an authority, we let the private sector be the one to operate. To create an authority takes a lot of money to just maintain the people who are there to be appointed by the Governor.

"What I was made to understand is that when you create an authority to just give the RFP, that it can be done some other way without really creating this authority to ensure fairness.

"Mr. Speaker, if we do away with the authority and come up with some other way with the request for a proposal, that the fiscal implication of this bill would practically be minimal. The applicants for an RFP will be the ones to pay. We'll be paying with an application fee for the use of maybe the State's agency who will be issuing RFP so that no public sector funds will be used.

"And this is the concern that I have, and I have brought it up. It's still early in the process and, hopefully, we will be making these changes as it goes through the motion. I'll try to check with our friends in the Senate side to see if they can make this amendment, and see if there's a way we can really push for a people mover at the expense of the private sector."

Representative Ward then rose and stated:

"I rise with reservations on this measure.

"Mr. Speaker, we need a people mover, we need a connectiveness with our Waikiki Convention Center with our other places in town, but we don't need a bait and switch. Back in 1989, when we got sucked in the door with an RFP for a mass transit system by which, using Japan as an example, we were going to have a free one, what we did was go out to bid, as this bill proposes that we go out to bid, and then suddenly, lo and behold, no one came in and said: Well, we can't do it, you're going to have to do it.

"So I would say, we need this, it's good, it's the sense of what the private sector should be doing. But let's not let it be in the camel's nose in a tent where we turn around and we repeat the mistakes of the past.

"The one thing going for this bill, Mr. Speaker, for sure is that when they did back out of having a private sector bid to the mass transit system, they did say there were certain corridors and certain routes that were money-makers. And fortunately, the route that this is on is on one of those money-makers, so it should work. But we should be very cautious this is not a bait and switch where we turn around and it becomes another public works project.

"Which, with another footnote, Mr. Speaker, the Supreme Court has said: Now, if you want to privatize anything, you'd better come and change some of your collective bargaining laws because they've just turned over the landfill privatization on the Big Island. We don't know, Mr. Chair of Tourism, that this, in effect, is not also been mooted out or turned over to where it was. We're going to have to sit and talk with the labor leaders before we can ever consider a people mover.

"So, except for those two reservations, Mr. Speaker, this is a good idea."

Representative Moses then rose to speak in support of the bill, stating:

"I was quite impressed, during Transportation Committee hearings, at the new technology that exists to provide such a people mover, and I truly believe that we need it to help get tourists to Waikiki.

"And I agree with my colleagues that we want to make sure the State doesn't start taking it over. If you remember, we're in dire straits today because we have to pay for a convention center which would have been paid for by the private sector. Instead we decided to do it.

"In fact, I would say in this measure, the people mover, if it works, I wouldn't mind having it extended all the way from my district to Waikiki. And it would then be a rapid transit system.

"Thank you, Mr. Speaker."

Representative Yamane rose in support of the measure with reservations and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Yamane's remarks are as follows:

"I am for private funding and improved transportation in Waikiki. My concern is that past people mover systems in Waikiki have met with resident opposition. I am hopeful that resident concerns can be balanced with the intended purposes of the system, and that the public-private partnership respects the wishes of the residents of Waikiki."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 667, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TOURISM," passed Third Reading by a vote of 46 ayes, with Representatives Aiona, Kahikina, Marumoto, McDermott and Saiki being excused.

Stand. Com. Rep. No. 1080 and H.B. No. 979, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 979, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Moses rose in opposition to the bill and stated:

"This is the cigarettes and tobacco tax. I believe it is irresponsible for us to use taxing authority, one of the most far-reaching powers we have in this body to effect social change. Despite whatever I might personally feel about smoking, I can't help but note the taxation is about revenue generation, not about getting people to change their habits.

"A tax increase is still a tax increase for whatever reason. I cannot support any increase in taxes. If it is our intent to tax cigarettes out of existence, then the quicker, more humane route would be simply to ban them along with alcohol, hamburgers, and anything else that is deemed to harm us.

"If we're serious about changing social behavior, we should not be afraid to attack it directly by banning those activities we deem harmful. We tried it in this country once with alcohol.

"The logic in this bill would indicate, for example, that we should not ban people riding in the backs of pick-up trucks, we should simply tax them. I will vote no on this bill, Mr. Speaker."

Representative McDermott then rose to speak against the bill, stating:

"I'll make it brief. This is another tax, Mr. Speaker, and I'm trying to build a record of voting against all taxes, and I do have a knee jerk reaction to any tax bill. I will vote against it, but I have to disagree with my colleague, Representative Moses -- please do not tax hamburgers.

"Thank you."

Representative Suzuki then rose to speak in favor of the bill, stating:

"In the various testimonies received in support of this bill and in the financial plan of Budget and Finance, this bill will result in an increase of \$5 million in revenue if the tax is increased by two cents for a total of \$1 per 20 cigarette pack. What should be pointed out is that a two cents increase represents a 67% increase in the tax.

On a current revenue of \$38 million, a 67% increase should yield an increase of \$25.5 million, not what we've heard in testimony -- three to five million dollars. The reason all projections are met much lower is the leakage that is estimated to occur from taxed cigarettes moving into nontaxed cigarettes.

"The bill before us introduces the requirement of physically affixing a nonremovable identification on all nontaxed cigarettes. This process normally referred to as stamping would clearly identify nontax cigarettes sold through manufacturers, wholesalers and dealers. Stamping is required in many tax jurisdictions throughout

the Mainland on taxable cigarettes, unlike this bill which requires stamping on untaxed cigarettes. This approach is much more efficient with the objective of identifying military cigarettes and preventing its leakage into the civilian market.

"The bill before us, as amended in Finance, proposes a half cent increase, not a two cents increase. This will increase the tax on a carton of cigarettes from \$6 to \$7, increasing the total price of a name brand cigarette from \$21.25 per carton to \$22.25. This \$1 increase represents a 4.7% increase in the retail price.

"I predict that through the use of stamping, tax compliance will increase and result in revenue increases greater than \$5 million currently in our financial plan. Although a 10 cents increase per pack will not adversely affect consumption, I believe this bill now represents a reasonable approach to taxation and compliance. In addition, a 10 cents increase does not heavily discriminate against those least able to afford this type of aggressive tax.

"Thank you, Mr. Speaker."

Representative Takai then rose to speak in support of the bill, stating:

"The previous Representative spoke about the specifics of the bill in regards to the leakage and the stamping as well as the miniscule tax increase from 3 cents to 3.5 cents per cigarette.

"I'd like to talk a little bit about the health issue, an aspect of this bill, and why it's being moved forward. Of particular concern to this Representative, and I'm pretty sure to this entire body, is the health of the State's young people. Tobacco companies have been aggressively targeting teenagers in their efforts to keep businesses profitable in Hawaii. And their efforts are paying off.

"While rates of adult smoking have dropped steadily in the past several years, teenage rates of smoking have risen sharply. Because persons who start smoking in their teens are most likely to become life-time smokers, the State faces a serious health crisis if present trends continue. Steps must be taken to prevent this.

"Raising the cigarette tax is an important part of these efforts. The health benefits of an increase in the cigarette tax is clear. States that have implemented a higher tax have immediately seen a decrease in smoking, especially among young persons.

"Studies show that a 10% increase in the price of cigarettes results in a 4% decrease in consumption. Because children are much more price sensitive than adults, the tax increase has an even greater effect on young smokers and discourages those children who are considering taking up this habit.

"It is estimated that the negative effects of smoking costs this State over \$328 million in 1995 alone. So you see, Mr. Speaker, much more than the increase in the taxes for revenue generation, and much more than the leakage that we are now facing in terms of the military -- the purchase of cigarettes from military institutions -- is the health benefits that we'll receive from passing this bill.

"And I'd like to finally point out, and I've mentioned this earlier in previous discussions regarding cigarette legislation, that everyday 3,000 young children take up this habit of smoking nationally. And it's been said that more than a thousand people die of diseases related to

tobacco smoking and tobacco-related illnesses and exposure each year in the State of Hawaii.

"I commend the Finance Committee and the Health Committee Chairs for moving this measure along and I wholeheartedly support it.

"Thank you, Mr. Speaker."

Representative Thielen then rose and stated:

"I'm speaking as an individual Representative and not as Minority Floor Leader.

"I'm speaking in strong support of the bill, Mr. Speaker, and I think it is not a tax issue, it's a health issue. And I'm very glad to see this measure move forward."

Representative Meyer then rose to speak against the bill, stating:

"Like some of my colleagues, I'm against another tax increase. While it's been pointed out that this is a 4.7% increase, the provision in the bill that would have this tax go up to 4 cents per cigarette on the first day of the month, is 180 days after the United States Congressional Act is signed into law which requires military installations to purchase cigarettes in Hawaii. I don't know the date on that, but since that has already occurred for liquor I'm sure it's not too far away, and that would make the increase 9.4% which is much more substantial.

"I'm against this kind of legislation, just on the principle of social engineering and the government telling people what is good for you and what is not. If you follow that rationale, we should tax sugar, red meat, surf boards and sky diving equipment, and I don't think we do yet.

"Thank you, Mr. Speaker."

Representative Takai then rose and stated:

"Just very briefly. I was just handed this information and I think it's very important.

"In a survey conducted by Ward Research in 1996, December, they found that 67% of this State's voting population supports raising the cigarette sales tax by not half a cent a cigarette, but by two cents a cigarette, from 40 cents a pack to a dollar a pack. And I think that's very important to note.

"I'd also like to urge you and the members to take a look at the editorial written in today's Advertiser, March 4th, by the Director of the Health Department, Dr. Miike.

"Thank you, Mr. Speaker."

Representative Lee then rose to speak in favor of the bill, stating:

"We all pay dearly because of the cost of lung disease, not only emphysema but chronic obstructed pulmonary disease and heart disease. And preventing children from starting to smoke is a very important health issue, and we should all support this issue."

Representative Pendleton then rose to speak in support of the bill, stating:

"Mr. Speaker, my general inclination is against any sort of taxes especially like this which are clearly and obviously regressive. However, as I sat in the Health Committee and heard the testimony from the Hawaii

Medical Association, the Hawaii Campaign for Tobacco Free Kids, Department of Health, a number of other medical professionals and people who have experience with pulmonary problems and lung cancer, I couldn't help but see that the statistics show that raising taxes on this particularly harmful product by half a penny per cigarette would result in saving lives.

"And so for me, Mr. Speaker, while I see that reasonable minds can differ on an issue like this, that for me a principled approach on a close question like this is to vote in favor of saving lives. I'm not a big fan or a proponent of social engineering, but as a youth pastor I have presided at funerals. I've had to explain to people and young people that certain things happen from certain behaviors, and lung cancer is something in my mind that clearly follows from use of cigarettes.

"My recollection of the hearing is that the only group that opposed or testified at the hearing in Health Committee in opposition to this was the Tobacco Institute. And I certainly am not a big fan of the Tobacco Institute and have some concerns about the way in which they have represented their product to the general public.

"And when I weigh the balance of the testimony, when I reflect on the phone calls that I've had from physicians, both Republicans and Democrats alike and also speak with my constituents, I have to vote in favor of this although I don't believe that we should get carried away and raise the tax on this in future years to the point that it creates a black market. I would be concerned about that but, at this point on this particular bill, I can live with the half percent increase per cigarette and support it, because the bottom line is that it results in saving lives."

Representative Moses then rose and stated:

"I probably was remiss at the beginning of this debate not to declare a possible conflict of interest. The conflict is that my father died of emphysema."

The Chair ruled "no conflict."

Representative Moses continued, stating:

"And I still stand here and say, you do not use taxes for social engineering. If we honestly believe that tobacco is such an evil that it must be eliminated, then we should ban it. But we must be sensitive to the plight of the Native Indians who introduced the Europeans to the use of tobacco, and it may be an affront and an assault to their culture to do so.

"Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 979, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CIGARETTES AND TOBACCO TAX," passed Third Reading by a vote of 40 ayes to 6 noes, with Representatives Halford, Kawanakoa, Meyer, Moses, Stegmaier and Ward voting no, and Representatives Aiona, Kahikina, Marumoto, McDermott and Saiki being excused.

Stand. Com. Rep. No. 1081 and H.B. No. 1086, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1086, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Abinsay rose to speak in favor of the bill, stating:

"This bill establishes an agricultural back-to-work pilot program for citizens or legal immigrants who are unemployed, or are receiving welfare, are displaced or economically disadvantaged. This pilot program, administered by the Department of Agriculture and Department of Labor Industrial Relations, will reduce welfare, dependency on unemployment, and thus helping the State comply with the Welfare Reform Act of 1996. That's why I'm supporting this bill.

"Thank you."

Representative Cachola rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Cachola's remarks are as follows:

"I rise to speak in favor of House Bill 1086, House Draft 2. The Federal government will soon begin its phase out of entitlements, transferring much of the burden to the states. The program established in this bill would help provide job opportunities for welfare recipients and legal immigrants.

"This may not serve all of those affected, but this pilot program will assist and help welfare recipients and immigrants who are willing to help themselves, and those with a strong desire for entrepreneurship. In addition, this will help the state fulfill its constitutional mandate to preserve prime agricultural lands.

"This pilot program will involve one project per island. The required funding will be minimal, creating one position for a statewide coordinator. Money for training will come from the Employment Training Fund.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1086, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL WORK OPPORTUNITIES," passed Third Reading by a vote of 46 ayes, with Representatives Aiona, Kahikina, Marumoto, McDermott and Saiki being excused.

Stand. Com. Rep. No. 1082 and H.B. No. 1838, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1838, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Yoshinaga submitted the following comments to be inserted into the Journal.

"Mr. Speaker, I rise to speak in favor of HB 1838, HD2.

"This voluntary response clean up bill is another example of your Committee on Energy and Environmental Protection's creative and innovative approaches to fostering partnerships with the private sector to assist the state in cleaning up contaminated properties and promoting redevelopment of historic districts.

"This bill provides a win-win solution for the economy and environment of Hawaii.

"This bill encourages the private sector to help the state to clean up contaminated sites and convert those properties back to productive use by providing prospective purchasers with a certainty of the degree of risk involved in such a clean up.

"By providing incentives and safeguards for prospective purchasers of contaminated sites, private parties are encouraged to clean up and develop properties that would otherwise lie dormant and polluted and result in economic waste. The state would then be forced, in many cases, to clean them up at taxpayers' expense.

"After the prospective purchaser cleans up the contaminated property, he or she would be given a letter of completion that provides a degree of structure and certainty to the process. This procedure provides clarity and protection and would make financing of the project possible and would encourage private businesses to clean up and redevelop these sites.

"The voluntary response program allows developers to negotiate a clean up agreement with the DOH and pay for a private environmental consultant to supervise the clean up without any cost to the taxpayer.

"This bill would solve a major obstacle in the redevelopment of potential sites. The problem is that loans are needed to finance the redevelopment, but are often secured by the property being purchased. If the property is contaminated, the banks are not normally willing to lend money since they may be held liable in the event of foreclosure. This measure solves that problem and in so doing also makes Hawaii's law consistent with federal law.

"The bill is also a win-win for the economy and the public because it will encourage the productive use of otherwise stagnant property and promote the construction industry. This bill also allows the revitalization and redevelopment of our older and historic business districts.

"Mr. Speaker, thank you for the opportunity to speak in favor of this important bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1838, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE ENVIRONMENT," passed Third Reading by a vote of 46 ayes, with Representatives Aiona, Kahikina, Marumoto, McDermott and Saiki being excused.

The Chair directed the Clerk to note that H.B. Nos. 140, 183, 376, 651, 667, 979, 1086 and 1838 had passed Third Reading at 2:41 o'clock p.m.

Stand. Com. Rep. No. 1083 and H.B. No. 1901, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1901, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE INSURANCE CODE," passed Third Reading by a vote of 46 ayes, with Representatives Aiona, Kahikina, McDermott, Saiki and Say being excused.

The Chair directed the Clerk to note that H.B. No. 1901 had passed Third Reading at 2:42 o'clock p.m.

Stand. Com. Rep. No. 1084 and H.B. No. 2065, HD 3:

By unanimous consent, action was deferred to the end of the calendar.

Stand. Com. Rep. No. 1085 and H.B. No. 1746:

By unanimous consent, action was deferred to the end of the calendar.

Stand. Com. Rep. No. 1086 and H.B. No. 1747:

By unanimous consent, action was deferred to the end of the calendar.

Stand. Com. Rep. No. 1087 and H.B. No. 1748, HD 1:

By unanimous consent, action was deferred to the end of the calendar.

Stand. Com. Rep. No. 1088 and H.B. No. 1713, HD 1:

By unanimous consent, action was deferred to the end of the calendar.

Stand. Com. Rep. No. 1089 and H.B. No. 1036, HD 2:

By unanimous consent, action was deferred to the end of the calendar.

Stand. Com. Rep. No. 1090 and H.B. No. 2207, HD 2:

By unanimous consent, action was deferred to the end of the calendar.

Stand. Com. Rep. No. 1091 and H.B. No. 1857, HD 1:

By unanimous consent, action was deferred to the end of the calendar.

THIRD READING

H.B. No. 1006, HD 1:

Representative Okamura moved that H.B. No. 1006, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Ito submitted the following comments to be inserted into the Journal:

"Mr. Speaker, this bill needs our support because it would correct an oversight that is long in coming. The Board of Regents makes very important decisions concerning the University, all without student representation. Isn't it time to bring a student to the discussion table.

"The appointed student or alumnus may not participate in voting, but having them present is a step closer to giving the students a voice in what is happening at the University.

"Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 1006, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII BOARD OF REGENTS," passed Third Reading by a vote of 46 ayes, with Representatives Aiona, Kahikina, McDermott, Saiki and Say being excused.

H.B. No. 784, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 784, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LICENSING OF ARCHITECTS," passed Third Reading by a vote of 46 ayes, with Representatives Aiona, Kahikina, McDermott, Saiki and Say being excused.

H.B. No. 1189, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1189, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAPTIVE INSURANCE COMPANIES," passed Third Reading by a vote of 46 ayes, with Representatives Aiona, Kahikina, McDermott, Saiki and Say being excused.

The Chair directed the Clerk to note that H.B. Nos. 1006, 784 and 1189 had passed Third Reading at 2:43 o'clock p.m.

H.B. No. 1216, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1216, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAPTIVE INSURANCE COMPANIES," passed Third Reading by a vote of 47 ayes, with Representatives Aiona, Arakaki, Kahikina and Saiki being excused.

H.B. No. 1190, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1190, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAPTIVE INSURANCE COMPANIES," passed Third Reading by a vote of 47 ayes, with Representatives Aiona, Arakaki, Kahikina and Saiki being excused.

H.B. No. 1049, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1049, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PAWNBROKERS," passed Third Reading by a vote of 47 ayes, with Representatives Aiona, Arakaki, Kahikina and Saiki being excused.

H.B. No. 1885, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1885, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ACCOUNTANCY," passed Third Reading by a vote of 47 ayes, with Representatives Aiona, Arakaki, Kahikina and Saiki being excused.

H.B. No. 1887, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1887, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF BARBERING AND COSMETOLOGY," passed Third Reading by a vote of 47 ayes, with Representatives Aiona, Arakaki, Kahikina and Saiki being excused.

The Chair directed the Clerk to note that H.B. Nos. 1216, 1190, 1049, 1885 and 1887 had passed Third Reading at 2:43 o'clock p.m.

H.B. No. 1889, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1889, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REGULATION OF HEARING AID DEALERS AND FITTERS," passed Third Reading by a vote of 47 ayes, with Representatives Aiona, Arakaki, Kahikina and Saiki being excused.

H.B. No. 1899, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1899, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE INSURANCE CODE," passed Third Reading by a vote of 47 ayes, with Representatives Aiona, Arakaki, Kahikina and Saiki being excused.

H.B. No. 1890, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1890, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DENTISTRY," passed Third Reading by a vote of 47 ayes, with Representatives Aiona, Arakaki, Kahikina and Saiki being excused.

H.B. No. 1872, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1872, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII EMPLOYERS' MUTUAL INSURANCE COMPANY," passed Third Reading by a vote of 47 ayes, with Representatives Aiona, Arakaki, Kahikina and Saiki being excused.

H.B. No. 2146, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 2146, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY TELEPHONE SERVICE," passed Third Reading by a vote of 47 ayes, with Representatives Aiona, Arakaki, Kahikina and Saiki being excused.

The Chair directed the Clerk to note that H.B. Nos. 1889, 1899, 1890, 1872 and 2146 had passed Third Reading at 2:44 o'clock p.m.

H.B. No. 2128, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 2128, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PENAL CODE," passed Third Reading by a vote of 47 ayes, with Representatives Aiona, Arakaki, Kahikina and Saiki being excused.

H.B. No. 1048, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1048, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL REMEDIES," passed Third Reading by a vote of 47 ayes, with Representatives Aiona, Arakaki, Kahikina and Saiki being excused.

H.B. No. 1601, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1601, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SEXUAL ASSAULT," passed Third Reading by a vote of 47 ayes, with Representatives Aiona, Arakaki, Kahikina and Saiki being excused.

H.B. No. 1537, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1537, HD 1, entitled: "A BILL FOR AN ACT RELATING TO NONCONSENSUAL COMMON LAW LIENS," passed Third Reading by a vote of 47 ayes, with Representatives Aiona, Arakaki, Kahikina and Saiki being excused.

H.B. No. 912, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 912, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SERVICE OF PROCESS," passed Third Reading by a vote of 47 ayes, with Representatives Aiona, Arakaki, Kahikina and Saiki being excused.

The Chair directed the Clerk to note that H.B. Nos. 2128, 1048, 1601, 1537 and 912 had passed Third Reading at 2:44 o'clock p.m.

H.B. No. 291, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 291, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GOLD AND SILVER STAMPING," passed Third Reading by a vote of 45 ayes, with Representatives Aiona, Arakaki, Ito, Kahikina, Moses and Saiki being excused.

H.B. No. 1861, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1861, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE LEASE DISCLOSURE," passed Third Reading by a vote of 45 ayes, with Representatives Aiona, Arakaki, Ito, Kahikina, Moses and Saiki being excused.

H.B. No. 1725, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1725, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HOMELESSNESS," passed Third Reading by a vote of 45 ayes, with Representatives Aiona, Arakaki, Ito, Kahikina, Moses and Saiki being excused.

H.B. No. 1797, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1797, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOUSING FINANCE AND DEVELOPMENT CORPORATION," passed Third Reading by a vote of 45 ayes, with Representatives Aiona, Arakaki, Ito, Kahikina, Moses and Saiki being excused.

H.B. No. 1309, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1309, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUM PROPERTY REGIME," passed Third Reading by a vote of 45 ayes, with Representatives Aiona, Arakaki, Ito, Kahikina, Moses and Saiki being excused.

The Chair directed the Clerk to note that H.B. Nos. 291, 1861, 1725, 1797 and 1309 had passed Third Reading at 2:45 o'clock p.m.

H.B. No. 1888, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1888, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DISPENSING OPTICIANS," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Ito and Moses being excused.

H.B. No. 780, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 780, HD 1, entitled: "A BILL FOR AN ACT RELATING TO

CONDOMINIUMS," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Ito and Moses being excused.

H.B. No. 774, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 774, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BUSINESS REGISTRATION," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Ito and Moses being excused.

H.B. No. 1859, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1859, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LIMITED LIABILITY COMPANIES," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Ito and Moses being excused.

H.B. No. 1360:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1360, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Ito and Moses being excused.

The Chair directed the Clerk to note that H.B. Nos. 1888, 780, 774, 1859 and 1360 had passed Third Reading at 2:45 o'clock p.m.

At 2:46 o'clock p.m., Representative Okamura asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 2:48 o'clock p.m.

H.B. No. 1623:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1623, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY APPEALS," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1617, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1617, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SUGGESTION AWARDS," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1624, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1624, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BOILER AND ELEVATOR SAFETY LAW," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1616, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1616, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HUMAN RESOURCES MANAGEMENT IN STATE

GOVERNMENT," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1618, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1618, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DUTIES OF THE DIRECTOR OF HUMAN RESOURCES DEVELOPMENT," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1395:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1395, entitled: "A BILL FOR AN ACT RELATING TO STATEWIDE TRAFFIC CODE," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 37, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 37, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 293, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 293, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUPIL TRANSPORTATION," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 613, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 613, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MARINE RESOURCES," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 98, HD 1:

Representative Okamura moved that H.B. No. 98, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Kawanakoa rose and stated:

"Just a quick note on House Bill 98, HD 1, I rise in support of the measure.

"I'm very pleased to see that we're finally taking some action on reducing the capital gains tax in order to stimulate our economy. I think it's a very business wise move.

"I'm proud of the Legislature that we've taken this direction and hopefully we can further stimulate the economy with other innovative ideas of this nature.

"Thank you, Mr. Speaker."

Representative Moses then rose in support of the bill and stated:

"This is the kind of tax bill I like; it's a tax reduction. This is what we should be doing more of.

"Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and H.B. No. 98, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE TAXATION OF CAPITAL GAINS," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1644:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1644, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAX EXEMPTION OF CERTAIN SCIENTIFIC CONTRACTS WITH THE UNITED STATES," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1650, HD 1:

Representative Okamura moved that H.B. No. 1650, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Marumoto rose to speak in favor of the bill with some reservations, stating:

"This bill exchanges the excise tax credit by sunseting the food tax credit, and I think this is a very good measure if you are making under \$30,000, so I think I am voting for this measure for that reason.

"However, it does do this at the expense of a tax increase for other taxpayers in the State. It takes away the \$27 food tax credit. And our middle class people who make over \$30,000 are desperately in need of tax relief and just to make them aware that they're losing this \$27 per exemption. We are not widening the brackets for income taxes, we are not increasing the standard deductions, so we are not helping our middle class taxpayers. However, I still urge a yes vote on this measure. Hopefully, we can help the middle class at a later date on another bill.

"Thank you."

Representative Suzuki then rose and stated:

"On the same measure, I wish to summarize my comments and to submit it," and the Chair "so ordered."

Representative Suzuki continued, stating:

"Mr. Speaker, for those who are advocating spreading the benefit to taxpayers with higher adjusted gross income, using similar methodology as expressed in the bill, if the \$25 million were allocated to taxpayers with up to 60,000 adjusted gross income, the credit would range from \$80 per taxpayer with adjusted gross income under \$10,000 to \$20 for taxpayers with AGI's from \$50,000 to \$60,000. And as you can see in the bill, the maximum credit for those in the lower tax bracket is \$220 per exemption.

"Mr. Speaker, in summary, this bill results in a zero revenue impact, and that has been the goal in many of our tax measures as we consider them. The reinstatement of the general excise credit will have a greater, more targeted impact on the taxpayers in the lower brackets because it is based on a per person exemption as opposed to a standard deduction increase or the administration's MAGI approach which are both based on a single amount for a return.

"Thank you, Mr. Speaker."

Representative Suzuki's additional remarks are as follows:

"This bill repeals the \$27.00 food tax credit which was available to all taxpayers and exemptions regardless of income levels. This repeal will save the State \$25 million. In its place, we have installed the general excise tax credit at a cost of \$25 million.

"The general excise tax credit was a provision in previous state law. At that time, the credit applied to taxpayers whose adjusted gross income was \$30,000 or less. The maximum credit was 55% per personal exemption and was refundable. This meant that if the credit exceeded the tax liability, the taxpayer received a refund. The general excise tax credit of the prior law allowed a double credit for taxpayers 65 years or older.

"This bill installs a nonrefundable general excise tax credit on a sliding scale to a maximum of \$220 per exemption with no double exemption allowed for age. It decreases to zero for taxpayers whose adjusted gross income is more than \$30,000. For those taxpayers whose tax liability does not exceed the tax credit, they will receive a partial general excise tax credit and will not benefit from credits in excess of the tax liability.

"Based on 1994 data from tax filers, the sliding scale will distribute \$25 million to approximately 322,000 exemptions. This bill is a clear attempt to use tax policy to benefit those taxpayers in the lower tax brackets. Because the credit is only equal to but not in excess of the taxpayers tax liability, it is not an attempt to replace social programs.

"Such programs, administered by the Department of Human Services, follow specific guidelines of the department and federal laws that by its nature are different from tax laws.

"The intended beneficiary class of taxpayers who would receive from \$40 to \$220 (or multiples thereof based on the number of exemptions) generally will receive more than the sum of the repealed food tax credit of \$27.00 and the repealed single credit for child passenger restraining systems of \$25.00.

"For those of you who are advocating spreading the benefit to taxpayers with higher AGI's (Adjusted Gross Income), using similar methodology as expressed in this bill, if the \$25 million were allocated to taxpayers with up to \$60,000 AGI, the credit would range from \$80 for taxpayers with AGI's under \$10,000 to \$20 for taxpayers with AGI's from \$50,000 to \$60,000.

"Finally, this originally was an Administration bill which proposed the concept of MAGI (modified adjusted gross income) which the Committee felt was rather complicated, cumbersome, and would operate contrary to the goals of efficiency and simplicity in our tax laws and its administration. The Committee felt that this general excise tax credit is an efficient and fairer method of redistributing the tax savings from the repeal of the food tax credit.

"Other relief provisions that were considered and were available to redistribute the tax burden away from lower bracket taxpayers are: (1) increase in the amount of the personal exemption; (2) widening of the tax brackets; and (3) the increase in the standard deduction.

"Testimony was clear to the Finance Committee that attempts to adjust these features of our tax system would have been too costly in terms of loss revenue and as they related to the complexity of the administration of our tax laws. The degree of complexity related to changing or

reprogramming the computer in a timely fashion before the 1998 tax filing period also precluded further consideration of them.

"Mr. Speaker, in summary, this bill results in zero revenue impact. The reinstatement of the GE tax credit will have a greater, more targeted impact on taxpayers in the lower brackets because it is based on a per person exemption as opposed to a standard deduction increase or the MAGI approach which are both based on a single amount per return.

"Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and H.B. No. 1650, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INCOME TAX CREDITS," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1694:

Representative Okamura moved that H.B. No. 1694, pass Third Reading, seconded by Representative M. Oshiro.

Representative Ward rose and stated:

"I rise to speak for an excellent bill, 1694, exported services exemption of the GET tax.

"Mr. Speaker, Queen Isabella of Spain provided the resources for the explorer Columbus and he went west with the ships to discover the riches of America. Then the gold rush and the railroads and the Homestead Act provided incentives for young Americans to go west. As in the saying: go west, young man, go west.

"In each case, there was an incentive to go west and that is exactly what this bill is about, to get our entrepreneurs and our small businesses to go west to Asia and the Pacific, which is to our east, to do business.

"Our architects and our engineers presently export their services at a disadvantage with our competitors in the region and this would give them an even playing field. This is the only bill alive that lowers the GET tax for small businesses in Hawaii. It is a good bill despite the governor's threat to withdraw it following the teacher's settlement strike.

"But like the Nina, Pinta and the Santa Maria, let's keep it moving and let's go all the way to Asia and the Pacific.

"Thank you, Mr. Speaker."

Representative Suzuki then rose stated:

"On this same bill, I stand in support and I'd like to summarize my comments," and the Chair "so ordered."

"Mr. Speaker, this exemption, if it proves to be a success as we anticipate, will provide the framework and basis for the consideration of exempting all services, including presenting Hawaii as the medical center of the Pacific as we heard before.

"Hopefully, the rest of the world, including the Mainland U.S., will see all the professionals compete without a tax disadvantage in exporting their services. Hopefully for these professionals, moving away from Hawaii may not be the only alternative to earning a livelihood.

"Thank you, Mr. Speaker."

Representative Suzuki's additional remarks are as follows:

"This bill enables Hawaii's professionals to branch out into foreign markets by exempting architects, engineers, urban planners, and land use planners from the GET for revenues derived from work on international projects. This bill would put these services on a par with exported goods which are exempt from the GET.

"This would make Hawaii's construction-related business more competitive in other markets by putting them at the same advantage as their untaxed counterparts in competing for the same work.

"Mr. Speaker, these exemptions, if they prove to be as successful as we anticipate, will provide the framework and basis for the consideration of exempting all services, including presenting Hawaii as the medical center of the Pacific.

"Hopefully, the rest of the world, including the Mainland U.S., will see all the professionals compete without tax cost disadvantage in exporting their services. Hopefully, for these professionals, moving away from Hawaii may not be the only alternative for earning a livelihood."

Representative Moses then rose to speak in support of the bill, stating:

"I agree with my colleagues that this should help improve the climate of the State and again, this is a tax exemption, a reduction in taxes. I'm all in favor of it.

"Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and H.B. No. 1694, entitled: "A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAX EXEMPTION FOR EXPORTED SERVICES," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1876:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1876, entitled: "A BILL FOR AN ACT RELATING TO NOTARIZED SIGNATURES ON PROFESSIONAL AND VOCATIONAL LICENSE APPLICATIONS," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 783, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 783, HD 1, entitled: "A BILL FOR AN ACT RELATING TO NEGOTIABLE INSTRUMENTS," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1873:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1873, entitled: "A BILL FOR AN ACT RELATING TO THE LICENSURE EXAMINATION REQUIREMENTS FOR PSYCHOLOGISTS," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1892:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1892, entitled: "A BILL FOR AN ACT RELATING TO APPOINTMENT OF BOARD MEMBERS," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1874:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1874, entitled: "A BILL FOR AN ACT RELATING TO PRELICENSING INSPECTIONS," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1882:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1882, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INDUSTRY LICENSING," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1875:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1875, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION REQUIREMENTS FOR PROFESSIONAL AND VOCATIONAL LICENSING," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 787:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 787, entitled: "A BILL FOR AN ACT RELATING TO DEPOSITS OF PUBLIC FUNDS," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1883:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1883, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INDUSTRY LICENSING," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1879:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1879, entitled: "A BILL FOR AN ACT RELATING TO MASSAGE THERAPY," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1877:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1877, entitled: "A BILL FOR AN ACT RELATING TO OPTOMETRY EXAMINATION REQUIREMENTS," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1880:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1880, entitled: "A BILL FOR AN ACT RELATING TO OPTOMETRY LICENSURE," passed Third Reading by a

vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 788:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 788, entitled: "A BILL FOR AN ACT RELATING TO SECURED TRANSACTIONS," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1898:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1898, entitled: "A BILL FOR AN ACT RELATING TO REGULATION OF PRIVATE DETECTIVES AND GUARDS," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 773, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 773, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PEST CONTROL OPERATORS," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 786:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 786, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM COMMERCIAL CODE," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 345:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 345, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE RATE REGULATION," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1884:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1884, entitled: "A BILL FOR AN ACT RELATING TO REAL ESTATE BROKERS AND SALESPERSONS," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1862, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1862, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE RETURN OF MERCHANDISE," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 897:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 897, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUM PROPERTY REGIMES," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 778:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 778, entitled: "A BILL FOR AN ACT RELATING TO PLANNED COMMUNITY ASSOCIATIONS," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 2220:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 2220, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE FORECLOSURES," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 65, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 65, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PAWNBROKERS," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 2120, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 2120, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE RECORDING OF TRANSACTIONS," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 582, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 582, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMBAT," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 127, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 127, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PERIODIC BULLETIN OF THE OFFICE OF ENVIRONMENTAL QUALITY CONTROL," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1696, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1696, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1385:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1385, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 432, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 432, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1473:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1473, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1198:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1198, entitled: "A BILL FOR AN ACT RELATING TO CRITERIA FOR EXTENDED TERMS OF IMPRISONMENT," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 971:

Representative Okamura moved that H.B. No. 971, pass Third Reading, seconded by Representative M. Oshiro.

Representative Morita rose and stated:

"I stand in opposition to House Bill 971, relating to prostitution.

"The penalties for solicitation of prostitution in this bill are extremely harsh. Violators, guilty of a petty misdemeanor, shall be sentenced to a mandatory 30 to 90 days imprisonment without the possibility of suspension of sentence or probation, and no bail shall be allowed pending appeal of conviction.

"Considering the dilemma in our prison for prison space, I believe the penalties imposed are extremely harsh. It takes two to tango and without customers, they would have a hard time soliciting. So this is, I feel, directed at women and extremely harsh."

Representative Tom then rose and stated:

"I just want to make a very brief statement in support of H.B. 971.

"Well, Mr. Speaker, first of all, I want to acknowledge that the penalties are tough. And the reason they're tough is because, unlike drunk driving or unlike spouse abuse, when we talk about prostitutes in Waikiki, we're talking about a syndicate of persons with their pimps coming from the Mainland, from Washington, from Oregon, from California.

"I think that the only way we can stop this from happening, that they come here as one of their stop-offs and making money in Hawaii for their trade, is to invoke these kinds of penalties so the signal will be sent out, the message will be sent out loud and clear not to come to Hawaii, because Hawaii is not a great place to do this kind of business.

"You note that we didn't do it in all parts of the State, we just did it in Waikiki. Waikiki has been complaining for years and they're going to continue to complain about the high rate of theft, the high rate of drugs, the high rate of accosting people -- locals as well as tourists -- who come to visit our beautiful islands, who come to Waikiki not to be harassed, not to be treated in this kind of manner, and that's what we're trying to stop.

"The shortage of prison space, I submit to you, Mr. Speaker, that if this bill were allowed to take effect, that the message would be so clearly shown that Hawaii is not a place to do this kind of business, that you would not

send anyone to prison for this offense, for committing street solicitation in Waikiki.

"The purpose was not to punish the prostitutes or punish anyone. The purpose was to send that signal to the rest of the country, the rest of the world, the rest of the circuit, that for the last 20 years has been sending prostitutes to Hawaii to make a fast buck, that it does not pay to do business in Waikiki.

"Thank you, Mr. Speaker."

Representative Whalen then rose and stated:

"I'm in support of H.B. 971 in regards to the 'John' issue.

"I've been hearing people, particularly the women, grumbling that the men will not be prosecuted on this bill and I don't see where that's the case. It simply says, if you agree to engage in sex for a fee, man or woman, it doesn't matter.

"And I'm not talking about soliciting on the street, we're also talking about the 'Johns'. I think the bill that the Chair wrote applies to both sides of the exchange and I don't understand where this concern is coming from."

Representative Tarnas then rose and stated:

"On the same measure, I'd like to stand in support but with reservations.

"My reservations are the same as those of the Representative from Hanalei. Though I do support the measure, I am concerned about equity here and do agree that we do need to make sure that the pimps are also dealt with, as well as those who are soliciting the services of the prostitutes on the streets.

"Thank you very much."

Representative Moses then rose to speak in support of the bill, stating:

"As my colleagues have indicated, the bill does not say women prostitutes, it says prostitutes. There may also be male prostitutes and they would be covered in like manner. There's already names of 'Johns' in their communities put in the newspapers so it is not a gender discrepancy here that I can see at all.

"As far as the prison crowding, if the factor here or the major overriding consideration is that we don't have prison space, then we should do one of two things: either build more prison space or legalize murder, rape, robbery and everything else that overcrowds our prisons. I think it's faulty logic. Build more prison space, but whether you have it or not pass the laws that are right.

"Thank you, Mr. Speaker."

Representative Meyer then rose and stated:

"I rise in support of this bill, House Bill No. 971, but I do have a few reservations.

"I think I've realized that prostitution is a very large problem in Waikiki. It's evident on almost every corner and it's an embarrassment for us, and it certainly is not helpful to the visitor industry.

"But I really have a problem with having one penalty for prostitutes in Waikiki and a different penalty for prostitutes on Hotel Street or out on the Windward side, wherever they might be. And I would really question the

constitutionality of a bill like this, and that's my reservation."

Representative Fox then rose to speak in support of the bill, stating:

"The police have said that the most important thing for cleaning up prostitution in Waikiki is assured swift punishment in the form of jail time. The minimum sentence of 30 days is the clearest sign that we can give that this is something we do not want to have.

"As to the point raised about getting the pimps punished, that is of course what we want to do in the end. That's the most important way to get at prostitution. And it's when prostitutes face stiff, tough penalties that they're in a position to turn against their pimps and testify on them. So it's a basic part of the strategy, strongly supported by the police and all law enforcement officials dealing with the subject.

"Thank you, Mr. Speaker."

Representative Lee rose in opposition to the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Lee's remarks are as follows:

"This bill, although it addresses a serious problem for our tourist industry and the merchants of Waikiki, has some disturbing aspects.

"We do not imprison child abusers, batterers of women or drug dealers for thirty days without bail, yet we are proposing to do this for a nonviolent crime. The real issue here is who is responsible for 'trafficking in women.'

"According to Norma Hotaling, a former prostitute and honors graduate of San Francisco State University, the average prostitute is only 16 years old when she starts in business. There is a direct relationship between prostitution, drugs and child sexual abuse. Most prostitutes live lives ruled by drugs and possessive pimps.

"Let's be fair and attack this problem from all angles -- working together with the community and the police -- to find a solution. The solution should be one which is effective and one which uses our scarce prison space for the most violent and harmful offenders, yet sends a clear message to those 'trafficking in women' that this will not be tolerated."

The motion was put to vote by the Chair and carried, and H.B. No. 971, entitled: "A BILL FOR AN ACT RELATING TO PROSTITUTION," passed Third Reading by a vote of 48 ayes to 2 noes, with Representatives Lee and Morita voting no, and Representative Stegmaier being excused.

H.B. No. 1400:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1400, entitled: "A BILL FOR AN ACT RELATING TO BALLOT ACCESS FOR POLITICAL PARTIES," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1365, HD 1:

Representative Okamura moved that H.B. No. 1365, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Tarnas rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Tarnas' remarks are as follows:

"This bill resolves a problem that became obvious in the failed attempts by the Board of Land and Natural Resources to make a decision relating to building a power plant expansion at Keahole, Hawaii Island.

"Whatever your feelings are about the merits of the application, you can understand my reasons for seeking this change. The law says, a majority of all members must vote against an application for it to be denied.

"The BLNR voted 3-2 to deny the application with one member being excused because of conflict of interest. However, since only three voted to deny the permit, not four, which is a majority of all members, the application was approved.

"This bill makes it clear that only a majority of those who are voting is required to deny an application."

The motion was put to vote by the Chair and carried, and H.B. No. 1365, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONSERVATION DISTRICT USE PERMITS," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1366, HD 1:

Representative Okamura moved that H.B. No. 1366, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Tarnas rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Tarnas' remarks are as follows:

"This bill reaffirms that decisions of the Board of Land and Natural Resources must make their decision in 180 days. This bill also allows for the Chairperson of the Board of Land and Natural Resources to extend the period for decision making for another 180 days in the case of a contested case hearing or a requirement of a special management area permit or an environmental impact statement.

"As the Senate reviews this measure, I encourage them to consider that we should have the BLNR start counting the 180 days from the date the application is received in the department's office."

The motion was put to vote by the Chair and carried, and H.B. No. 1366, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONSERVATION DISTRICT USE PERMITS," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1673, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1673, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND USE," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

H.B. No. 1341, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1341, HD 1, entitled: "A BILL FOR AN ACT RELATING TO

LAND USE," passed Third Reading by a vote of 50 ayes, with Representative Stegmaier being excused.

The Chair directed the Clerk to note that H.B. Nos. 1623, 1617, 1624, 1616, 1618, 1395, 37, 293, 613, 98, 1644, 1650, 1694, 1876, 783, 1873, 1892, 1874, 1882, 1875, 787, 1883, 1879, 1877, 1880, 788, 1898, 773, 786, 345, 1884, 1862, 897, 778, 2220, 65, 2120, 582, 127, 1696, 1385, 432, 1473, 1198, 971, 1400, 1365, 1366, 1673 and 1341 had passed Third Reading at 3:04 o'clock p.m.

At 3:05 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 3:06 o'clock p.m., the Vice Speaker assumed the rostrum.

H.B. No. 411, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 411, HD 1, entitled: "A BILL FOR AN ACT RELATING TO UNAUTHORIZED STRUCTURES," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 125:

Representative Okamura moved that H.B. No. 125, pass Third Reading, seconded by Representative M. Oshiro.

Representative Fox then rose to speak against the bill, stating:

"We had a discussion of this bill on the floor of the House last week. Basically, this is a bill on testimony. I received opposition from almost everyone who spoke on the bill. I would particularly, at this point, like to call the attention of my colleagues to the opposition of the Department of Agriculture, which spoke against this bill about agricultural lands because the way that the lands are defined is incorrect as far as the Department of Agriculture is concerned.

"It's a serious, complicated bill. We shouldn't be moving forward with it at this time when there's so much opposition and so little support.

"Thank you, Mr. Speaker."

Representative Jones then rose to speak in support of the bill, stating:

"House Bill 125 basically establishes the LESA Program as mandated by the State Constitution. We are aware of the comments submitted by the Department of Agriculture and we will be working with them to refine this bill. Basically, what we want to do is keep the bill alive so that we can address the concerns raised by the Department of Agriculture and other agencies.

"Since the Constitutional Convention of 1978, we've been trying to pass this bill. It's a real difficult bill to pass so what we want to do is keep it alive and address the concerns that have been raised in the various committees.

"Thank you, Mr. Speaker."

Representative Kanoho then rose and stated:

"I wish to indicate an aye vote but with reservations on the same measure, House Bill 125," and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and H.B. No. 125, entitled: "A BILL FOR AN ACT RELATING TO LAND USE," passed Third Reading by a vote of 41 ayes to 7 noes, with Representatives Fox, Halford, Kawanakoa, Marumoto, Meyer, Thielen and Ward voting no, and Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 145, HD 1:

By unanimous consent, action was deferred to the end of the calendar.

H.B. No. 472:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 472, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1691, HD 2:

Representative Okamura moved that H.B. No. 1691, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Tarnas rose and stated:

"I rise in support with some reservations on House Bill 1691, House Draft 2.

"I recognize the value of an after-the-fact payroll in order to deal with some of the concerns related to taking sick leave and other leave, making sure that the pay is commensurate with services rendered so I do support the bill.

"My reservations are, however, the same as last session when we dealt with this issue and that I do believe this should be negotiated under collective bargaining rather than by legislative fiat. And I'll go ahead in supporting the bill with those reservations."

Representative Kahikina then rose in support of the bill and stated:

"This is a fairness bill. It's a bill that's paying people for what they worked for and may I just make mention that we just had information from the Department of Accounting and General Services that the total uncollected monies is \$2.3 million. And I believe that this measure will address the over-payment, and I think this is a good bill.

"Thank you."

Representative Halford rose in opposition to the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Halford's remarks are as follows:

"Mr. Speaker, I acknowledge that this bill is considerably better than the payroll lag bill last year. If a system is set up to process information faster than the State does now, this bill may solve the problem of overpayments to those State employees who do not actually work hours originally expected.

"Note, Mr. Speaker, the overpayment problem could also be solved by withholding balances due from retirement funds otherwise payable to a departing

employee. It would only require our authorizing such withholding.

"However, the real problem, Mr. Speaker, with this after-the-fact payroll bill is its intention to come up with \$51 million to feed the Legislature's excessive spending appetite. There is no change or adjustment in our pattern of spending. There is no cut in expenditures as compared to revenues.

"The problem relates to a lack of integrity. This money is represented in the committee report as 'savings.' It is not being saved. The money is owed to our State employees. It is borrowing. Borrowed from State employees without their concurrence. The purpose of this one time borrowing is to pay current expenses. It would be much more responsible if the borrowing were used to pay down our other debts.

"In closing, the committee report, in reference to the present payroll periods and payments, says, and I quote: 'This can cause incongruities.' Ironically, about this bill itself, it may be said: This can cause incongruities.

"Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and H.B. No. 1691, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PAYROLL PERIODS," passed Third Reading by a vote of 45 ayes to 3 noes, with Representatives Halford, Lee and Menor voting no, and Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1692, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1692, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC CONTRACTS," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1689, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1689, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EXPENDITURE OF STATE FUNDS," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1686, HD 1:

Representative Okamura moved that H.B. No. 1686, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Ward rose and stated:

"House Bill 1686, relating to the bid preferences and the procurement code, I wish to speak in opposition to that one.

"Mr. Speaker, this bill would add 7% more on to every government contract over a certain amount of money because of its preference to local contractors.

"Interestingly, it's been decreased from 15% down to 7% because, as the Attorney General said, 'it would become more constitutionally possible.' I think that statement in itself, when we find that we've got to lower our bid preference because it doesn't meet constitutional muster, Mr. Speaker, that this is nothing more than a political gimmick or a political favor to stimulate the economy. Because as I said earlier, this administration

doesn't know how to, in the real world, stimulate the economy. These kinds of me first and my kind first, these types of economic measures are common in third world countries, and particularly those that have the slowest amount of economic growth.

"It's no mystery how to get Hawaii moving again, and I repeated those and I'll repeat them again: Government has to fit the economy, taxes have to lower in order to get more money in the hands of the people, unless we discover oil, of course, on our shores.

"And we've got to get user friendly to the business community that hires 85% of the people in this State who work, which is nearly 600,000 people. So, Mr. Speaker, drawing walls around our counties and walls around our companies by giving them favoritism is missing the reality of what every State's business community has been raised on and always survived it, and that is competition is the best policy.

"And I would also remind my colleagues of this body, APEC is coming. By the year 2010, this is going to be one global market of which we've got to get our athletes, if you will, up for this international competition. We've got to be ready when they come. But this bill instead is saying: Well, you guys can sit back and get fat for awhile, and then when it really comes to international competition, you're not going to be ready. And that's what I'm fearing about this bill, Mr. Speaker.

"Thank you."

Representative Fox then rose and stated:

"I'd like to record a yes with reservation on the bill.

"Basically, we have a chance to go back to the 5% where we were on House Bill 1686, House Draft 1, before we enacted the 15. We stopped at 7; I think we should go back to 5."

Representative Moses then rose and stated:

"Same bill, same reason. We should have gone back to the way it was. It was a mistake to raise it to 15%. It is still a mistake to leave it at 7. With reservations."

The motion was put to vote by the Chair and carried, and H.B. No. 1686, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Third Reading by a vote of 47 ayes to 1 no, with Representative Ward voting no, and Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1639, HD 2:

Representative Okamura moved that H.B. No. 1639, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Marumoto rose to speak in favor of the bill with reservations, stating:

"My understanding is, it does not conform to the long-term care tax deduction which is in the Internal Revenue Code. I think we might want to take a closer look at this lack as the bill proceeds to final passage.

"Thank you."

Representative Suzuki then rose to speak in support of the bill, stating:

"I think that I need to point out, as the Subcommittee Chair, that we were very careful not to include and

conform to the Internal Revenue Service Code on the measure for allowing a deduction for long-term care services and insurance premiums, for the specific reason that it will cost the State approximately \$12 million to allow this conformity.

"And I can understand the previous speaker, on another bill, when he talks about the rhetoric on this floor. In order to give money away, we need to find it. In order to give cuts and tax breaks or eliminate credits, we have to find that money. We haven't found the \$12 million and every time we give a break to business, we need to find it because even though we've seen that maybe there's a return on the horizon, we can't account for it in our financial plan. We only can count a projection by the Council on Revenues, so as not to mislead the rest of the colleagues on the floor, everything we do must be balanced in accordance with the requirements of preparing our budget.

"Thank you, Mr. Speaker."

Representative Fox then rose to speak in support of the bill with reservations, stating:

"The Federal government, in its wisdom, has provided this credit for long-term care. Long-term care is already an extremely serious problem in our community. It's very difficult to finance long-term care. President Clinton understands that thoroughly, and it's really, really unfortunate that the State of Hawaii is making an exception for a tax credit that is given in the Federal statute.

"If it costs \$12 million, then so be it. I can certainly rise to the challenge to find \$12 million to cut to pay for this credit, and I'd be happy to. I have to support the bill because the other parts of the conformity are certainly in line but I think it's really appalling that we're not standing up for long-term care credit. Governor Cayetano asked for it. This is a very important exception that's taking place before our eyes.

"Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 1639, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CONFORMITY TO THE INTERNAL REVENUE CODE," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1031, HD 1:

Representative Okamura moved that H.B. No. 1031, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Moses rose to speak against the bill, stating:

"This bill is touted as a tax reform and yet while the citizens are certainly reform-minded, it's doubtful they would consider a bill whose net effect is to increase taxes by about a half a million dollars to be a reform measure. The bill removes a lot of tax credits. Some of them are archaic and others that are only used by a few people.

"But historically, this State has overtaxed and then applied selective tax credits to take out some of the sting, real or political. Whether this is good tax policy or not, these tax credits did provide some relief. And when we take them away, we are raising taxes.

"If we want to effect real tax reform, an effort of this type must be accompanied by a significant across-the-

board tax decrease, as at least five other states have discovered that such an approach results in a revitalized economy. We must do better than this, Mr. Speaker. We must cut taxes.

"Thank you."

Representative Suzuki then rose to speak in favor of the bill, stating:

"First of all, Mr. Speaker, I'd like to recognize and thank the members of the Tax Review Commission for their hard work and dedication, spending the many hours of meetings over the past two years in reviewing various aspects of our tax system.

"There was a member in the audience, I don't know if she's still here, Miss Tatum, who served as a member of the Board. Most of their recommendations were included in this bill and other bills before this Legislature. Today, this draft contains 12 items that are being limited, repealed, sunsetted, etc. This is the first time the general public has a clear indication of legislative intent and these remaining measures in this one bill. They also have indication in the other measures that are currently moving through the Legislature.

"On crossover to the Senate, those taxpayers that are adversely affected can continue the hearings process so that at conference, we'll be able to make our final decision with all the relevant facts before us.

"In addition, other measures on today's agenda, some of which are also the Tax Review Commission's recommendations, have an offsetting effect on some of the measures in this bill. For example, the taxpayer who receives the general excise tax credit of \$40 to \$220 and possibly multiples thereof based on their number of exemptions, generally, will receive more than the sum of the repealed food tax credit of \$27, and the repealed single credit for child passenger restraint systems of \$25.

"A no vote on this bill, in light of our process and in consideration of the various interrelationships and complexity of tax legislation now moving forward in separate pieces of legislation, would certainly be premature. I urge my colleagues to vote yes.

"Thank you, Mr. Speaker."

Representative Marumoto then rose to speak against the bill, stating:

"And in doing so, I would like to have the previous remarks of the Representative from Makakilo entered as my own," and the Chair "so ordered." (By reference only.)

Representative Marumoto continued, saying:

"I think he covered the entire subject very well. But as I mentioned earlier, there are no measures, including this one, to widen the brackets for income tax. There is no increase in the standard deduction.

"These two suggestions were in the original Tax Review Commission recommendations. What is left from the tax review recommendations are just the tax increases. All the tax decreases seem to have fallen by the wayside.

"But I'd like to limit my remarks to the section of the keiki passenger restraint system, and I entitled my remarks: don't throw the baby out with the bath water. In other words, don't repeal the keiki car seat tax credit or specifically, the repealed tax credit is a tax increase.

"House Bill 1031, House Draft 1, proposes to repeal several tax credits. As we know, anytime we repeal a tax credit, we are raising taxes. A former tax director once told me: 'Why remove taxes on food and drugs or whatever, just provide a tax credit. Then when you need more money, just remove the credit. It's much easier to get the votes to repeal a tax credit than it is to raise taxes.'

"The reason we are repealing these tax credits is to raise revenues. That is why I'm strongly protesting the repeal of the measly \$25 keiki tax credit. Sunsetting this credit won't raise much money.

"In 1994, it was only \$82,375. For this paltry sum 3,295 tax credits are issued to 3,295 taxpayers. Three thousand two hundred ninety-five babies get keiki passenger restraint systems with the help of this credit. And we all know that these seats save kids from death and injury.

"I know you should not pursue social policy using the tax system. But folks, we give excise tax credits to low income families, we allow tax deferrals for housing accounts, we allow deductions for mortgages to promote home ownership. We conform to federal tax codes to grant deductions for higher education expenditures. If these aren't special goals, I don't know what is.

"It is my fervent hope that we will drop the repeal and the car seat credit from this measure before it meets final passage. Meanwhile, I have no choice but to vote no and I know that means I take myself off from any consideration for Conference Committee, but I feel very strongly about this. Mahalo for listening to this 'tutu.'"

Representative Pendleton rose and stated:

"I rise in opposition to the same bill, House Bill No. 1031, House Draft 1, taxation.

"Mr. Speaker, the reason why I oppose this bill has to do with Section 4 of the bill which amends Section 237-17 of the Hawaii Revised Statutes. Mr. Speaker, as I read this passage, it effectively increases the tax liability for persons with impaired sight, hearing or who are totally disabled. I'm opposed to, in effect, raising taxes especially on people like this who are in need of the most protection of the government and who are least able to adjust their patterns of life-style or work habits to be able to handle the added tax burden.

"Also I would echo the remarks of Representative Barbara Marumoto with respect to the keiki car seat. Three children were killed within the last three or four years based on not having a car seat. I haven't been able to research whether or not those parents were unable to afford it because of the lack of income, but I think that we shouldn't be repealing this tax credit on child passenger restraint systems, especially when we're moving in the right direction when it comes to pick-up trucks.

"I think that safety is of paramount concern. At the very least, perhaps we could at least test it and so make it possible for those who are poor and don't have the means, to be able to be assisted with the purchase of such safety seats.

"Thank you, Mr. Speaker."

Representative Say then rose to speak in support of the bill, stating:

"I can understand, Mr. Speaker, the pleas this afternoon in regards to restoring or retaining certain provisions of 1031, but talking to the Subcommittee

Chair, Representative Suzuki, who is the Chair of the Subcommittee on Taxation, let me say this to all of you: The provisions of the Tax Review Commission reflected all that you are stating today -- what is to be deleted or repealed, and what is to be saved by this House.

"I'm not going to fault anyone here but to commend Chair Suzuki in trying to come up with a balance in trying to address the Tax Review Commission's recommendations, Mr. Speaker. It is a very tedious process that we went through and a lot of the members, Mr. Speaker, of the Subcommittee and the Finance Committee had a very difficult time in understanding and comprehending the Tax Review Commission's proposal.

"For example, Mr. Speaker, in the measure that was before us and it presently is, there was a provision to change the GE rate for insurance solicitors from 1.5 to 4%. The Subcommittee Chair, along with Finance, agreed to take that out of the recommendation.

"And it is, for all of you, very difficult because it's not only the general excise tax that we did consider, the use tax, the personal income tax and it goes on and on, Mr. Speaker and members.

"Give us a fair shake that it is a beginning of trying to reform our tax system. If any of you think you could overhaul the system in one session -- and it's not even one session, Mr. Speaker, given the fact that today is the 26th day of our regular session -- give us a chance as a Majority caucus. Give a chance to the Subcommittee Chair who's trying his best in entertaining the Review Commission's proposals and recommendations.

"It's easy here on this floor to take potshots at us, to say: please restore this and please restore that and not take into consideration that any tax credit, Mr. Speaker, has an impact on the general fund as a reimbursement back to those special interest groups.

"I am not here to object or criticize what the members have been saying, but I ask for your patience and I ask for your conservative posture that we are trying our best, thanks to the Subcommittee Chair of Taxation.

"I am very proud of what the Subcommittee has done in the previous four measures and it has cost the State of Hawaii, if you add those provisions -- the tax credit for hotel renovations, the tax credit for exploited professional services, the tax credit for capital gains. It all has a major impact on our general fund base.

"Yes, this is a revenue enhancement of \$1.8 million, but it is a beginning. And maybe during the interim, with your support, Mr. Speaker, the Subcommittee on Taxation can continue on their studies and investigation, but given the time constraints that we have here on the floor, I believe Chair Suzuki has done a tremendous job on behalf of the people of the State of Hawaii in taking into consideration and acting upon the Tax Review Commission's recommendation.

"Thank you."

Representative Fox then rose to speak in support of the bill with reservations, stating:

"This is pretty much a gutted version of what the Tax Review Commission recommended. Most of the meaningful reductions or increases are out of the bill; however, as has been pointed out, there are offsetting tax credits elsewhere.

"Thank you."

Representative Moses then rose and stated:

"I rise the second time to discuss this bill.

"As we've heard, the Tax Review Commission had a number of measures and there's only part of them in here. They cautioned against doing some and not the others, by the way. And I'm not negating the wonderful efforts of our Subcommittee Chair, Representative Suzuki, I'm sure he's worked very hard. And just a few minutes ago he said: those taxpayers which are adversely affected can continue to ask for relief.

"I thought I was here to speak for the people that sent me here, and they have been asking for relief. They've been asking for years for relief. They've asked so hard that many of them have left; they can't plead any more for relief.

"We also heard from the Finance Chair to give the Majority a chance. I think the State of Hawaii has given the Majority a chance for many years, and all I can do today is speak for those people who have been asking for relief and who have given the Majority a chance. And I plead with the Majority: don't increase their taxes.

"Thank you, Mr. Speaker."

Representative Thielen then rose and stated:

"I'm rising to speak against the present form of the bill.

"Mr. Speaker, I note in the Committee findings that it states that the income tax deduction on political contributions has been retained. I would rather see that eliminated and have us retain the keiki car seat tax deduction. I think we could look at that. That's on page 3, the top item. Let's get rid of that tax deduction."

Representative Ward then rose and stated:

"I rise in support with one reservation, and that is, Mr. Speaker, the opportunity costs that we're missing by this bill.

"I think the Finance Chair has done well to bring to our attention what Representative Suzuki, one of the best and brightest we've got on the floor here and one of the best and brightest speakers in terms of taxation. However, what we're missing, and what I refer to as the opportunity costs, is that sooner or later we've got to face the music that any State that's got a turnaround in its economy has to lower taxes and control spending.

"What was missed in this bill, in this Tax Review Commission, is that unless it was revenue neutral, in other words, unless I make money, I'm not going to invest any money. No risk, no gain. There was no discussion of anything innovative or creative. And Mr. Speaker, we are at a slide in our economy -- jobs are still down, we've got 15,000 jobs lost, 3,000 even after the last quarter or the last half of 1996. We are in trouble; we need to be creative and innovative.

"The tax policy of New Jersey, California and New York has shown that unless you manipulate some of these things and give people a break, you get a larger multiplier. When government spends, it gets a .9 multiplier; when individuals spend, it's 1.4. Mr. Speaker, we've got to be risk takers to get ourselves out of this malaise of going nowhere and just repeating the status quo.

"So what has been done is good, but it's only the status quo; we've got to be more innovative and creative. We

need to lower taxes and get government to fit the size of the economy. Until we face that reality, this is going to be the kabuki play -- pretending that those people aren't there and they're actually there.

"Thank you, Mr. Speaker."

Representative Santiago then rose to speak in support of the bill, stating:

"As the previous speaker has just mentioned, we do need to face some realities. Some of the realities that this Chairman has to face all the time in his Committee is the reality that we're in a state of crisis.

"It is one thing for me to have to sit here and listen to political rhetoric every time on the floor. It is another thing for me to have to sit in my Committee and listen to the pleas of the people who come before us, saying: we do not have that much time left.

"When I see tax reform, and as I read the bill, and as I have shared with the Chairman of the Finance Committee and with the Chair of the Subcommittee, part of our responsibility when we come here is to make sure that the people of our community are cared for. I am not going to argue with some of the statements made about stimulating the economy, but I will ask that when we face the reality of our fiscal crisis that we consider those who are not as vocal in our community, who do not go to the polls and turn us out in droves, but who will come to see us and ask that we not forget them.

"And whether this be the vehicle for which we do that or not, I do not know, but I will stand before you and say: I will support this bill, I will support some of the provisions in it. And I will ask that as it moves through the process, that if this becomes the vehicle for us to care for our community, then so be it.

"Thank you, Mr. Speaker."

Representative McDermott then rose to speak against the bill, stating:

"I'll make it brief. With the repeal of so many credits, that's actually a tax increase. I smell a tax increase so I'm voting against it.

"Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 1031, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 37 ayes to 11 noes, with Representatives Aiona, Halford, Kawanakoa, Marumoto, McDermott, Meyer, Moses, Pendleton, Thielen, Ward and Whalen voting no, and Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 2137, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 2137, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COASTAL ZONE MANAGEMENT," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1382, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1382, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ADJUDICATION OF TRAFFIC INFRACTIONS," passed

Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1406, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1406, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CANDIDATE NOMINATION PAPERS," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 952, HD 1:

Representative Okamura moved that H.B. No. 952, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Yoshinaga rose and stated:

"I rise to speak in favor of House Bill 952, HD 1, and just would like the Clerk to note my aye vote with reservations on that measure," and the Chair "so ordered."

Representative Morita then rose in support of the bill with reservations, stating:

"My concern is, the needs of the injured party need to be considered and protected no matter which of the at-fault parties has money."

Representative Pendleton rose in support of the measure with reservations and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Pendleton's remarks are as follows:

"Mr. Speaker, I rise to speak regarding House Bill 952, relating to torts.

"Mr. Speaker, this bill will abolish joint and several liability with respect to all joint tortfeasors. It provides that where a government entity or any other person or entity, whether public or private, is a joint tortfeasor, that person is liable for no more than the percentage share of damages attributable to that person.

"Mr. Speaker, I have serious reservations concerning some of the ultimate effects of abolition of this long standing doctrine in our State. Permit me to briefly summarize my understanding of how this doctrine came about in the common law and the reasons therefore. This will, it is hoped, provide a context within which to understand my reservations.

"The general rule is that one who joins in committing a tort cannot avoid accountability for his or her damages merely by arguing that another person also participated in the actions causing the damages. This rule was developed by the common law because individuals sought to be free of liability on account of the simultaneous or joint misconduct of others. Hence the law developed the principle that joint tortfeasors are jointly and severally liable.

"Mr. Speaker, a distinguished legal encyclopedia has the following to say on the topic: 'In the United States joint liability can be found where the independent acts of two parties have concurred to produce a single and indivisible result.' This legal authority continues: 'Modern authority is generally in favor of the principle that joint, or more precisely, joint and several liability may exist notwithstanding the absence of concerted action on the part of wrongdoers.'

"This rule is particularly applicable where the injury would not have occurred except for the concurrence of the several wrongful acts.

"Mr. Speaker, my concern is that we will leave people without recourse. We are here discussing tortfeasors, those who have been found negligent. Let us not forget that negligence is where one has not acted or exercised that degree of care which a reasonable person would exercise under the circumstances and said actions or inactions were the direct and proximate cause of the damages.

"We are talking about people who have caused harm to others. Perhaps when apportioned among the two 'bad guys', bad guy number one caused only 49%, and not 51%, as did bad guy number 2. And if insurance is insufficient or non-existent for bad guy number 2, why should the injured victim not be made whole? This is what the doctrine of joint and several liability wrested with. It weighed the interests of the tortfeasors, the interest of the injured victim in being made whole, and the necessity of creating incentives against negligent conduct.

"Should we not want to provide disincentives against unreasonable conduct?

"I think that the prospect of additional exposure was not intended to overcompensate victims but rather to prevent negligence in the first place. We already see victims being under-compensated. They generally do not recover attorney's fees. They are not given the present value of the money which would have made them whole, that is, they are not given interest based on the CPI or some other index. Why now do we seek to abolish doctrines such as this?

"Mr. Speaker, the Sierra Club, Hawaii Chapter, testified in opposition to this abolition of joint and several liability. In their testimony they stated that: 'Joint and several liability is essential to deter environmental wrongdoing. Toxic contamination poisons drinking water and injures public health. Environmental litigation to clean up toxic contamination and ensure that polluters compensate injured members of the public requires joint and several liability. Elimination of joint and several liability may provide comfort to corporate polluters -- but does nothing to help the average citizen or the environment.'

"From the testimony, it is clear that there is a serious concern that our efforts to protect the environment may be hampered by abolition of the doctrine of joint and several liability in the State of Hawaii.

"Mr. Speaker, I am pro-business. I strongly support and champion entrepreneurship and want to do all I can to energize our economy. Accordingly, given the great preponderance of testimony provided at the hearing of this bill, I will be voting in support of said measure with reservations as I have articulated earlier.

"We are in a difficult economic situation in this State. People are going out of business. Consequently, their employees are being forced out of the labor market and instead placed on the State's doles. Our tax base is, as a result, shrinking while we have greater demand for government services. We must end this terrible cycle. I will vote in favor of this bill, as indicated. But it is my hope that we are not inadvertently hurting the people of Hawaii by abolishing this long-standing principle of law."

The motion was put to vote by the Chair and carried, and H.B. No. 952, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TORTS," passed Third Reading by

a vote of 47 ayes to 1 no, with Representative Thielen voting no, and Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1589, HD 1:

Representative Okamura moved that H.B. No. 1589, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Pendleton rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Pendleton's remarks are as follows:

"Mr. Speaker, I rise in support of House Bill 1589, House Draft 1.

"Mr. Speaker, this bill will extend the statute of limitations for the collection of judgments for child, family, or spousal support until ten years after the eighteenth birthday of the child for whom the order or support was rendered. This will facilitate collection actions. A shorter statute of limitations would only act as a shield for deadbeat dads. Now the extension will serve as a sword for those who otherwise would not be able to secure that which is due and owing. I applaud this provision.

"Mr. Speaker, this bill will also clarify the law regarding a presumption for a child support modification. There is now a quantitative standard. This is section one of the bill, beginning with line 16.

"Mr. Speaker, the bill also provides for a means in which direct payment agreements may be voided. This as well as the above-noted clarifications will help all parties concerned.

"Mr. Speaker, as a former youth minister, I have all too often seen irresponsible parents bring children into this world only to cast aside financial and parental responsibilities. While the law cannot inculcate love and responsibility, and while the law cannot turn bad people into good people, the law can provide a framework within which we can effectively strive for justice. This bill is rather complicated, Mr. Speaker. It is also less than perfect, in that it will not magically solve all of the problems facing those seeking to obtain support pursuant to court orders. However, it is a substantial step in the right direction. I urge my colleagues to support House Bill 1589."

The motion was put to vote by the Chair and carried, and H.B. No. 1589, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD SUPPORT ENFORCEMENT," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1590, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1590, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM INTERSTATE FAMILY SUPPORT ACT," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 2163, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 2163, HD 1, entitled: "A BILL FOR AN ACT RELATING TO

HARASSMENT," passed Third Reading by a vote of 47 ayes to 1 no, with Representative Kahikina voting no, and Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1132, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1132, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE RECODIFICATION OF THE EDUCATION STATUTES," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1131, HD 1:

Representative Okamura moved that H.B. No. 1131, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Moses rose to speak in opposition to the bill, stating:

"On discussion of the last bill we heard on this floor just a minute ago, that the bill was unnecessary. We didn't need to do it because the Superintendent can already do it. Well, the same would apply then with House Bill 1131, HD 1.

"This bill authorizes or actually requires the Department of Education to establish rules to change the graduation requirements by making the SCBM Council approve measures or at least allowing them to approve measures that would require community service for graduation. Like we heard in the last bill, the Superintendent can do this already, the SCBM school could ask for a waiver already. The Superintendent has been quite forthcoming in saying that if the school asks for it through the SCBM Council, it'll be granted.

"I don't understand why we're doing this, unless we intend to do this incrementally to require community service for graduation credits. Now, that may sound commendable to require such graduation exercises; however, what jobs are these students going to perform? That has not been thought out. The answer is: well the SCBM Council will decide. My answer is: they can decide it now. Let's let them decide it, we don't need the bill.

"Thank you, Mr. Speaker."

Representative Abinsay then rose to speak in strong support of the bill, stating:

"Community service is an integral part of our participatory democracy. Involvement in community work is what a civic culture is about. Without civic minded citizens, our democratic structures will crumble at a phase of atrophy.

"I have been involved in community work continuously for over 20 years, Mr. Speaker, and I have seen its value in promoting the general welfare as well as the engendering of one's own personal growth. How true is the saying: it is better to give than to receive. Because in giving of our time, talents and treasure for the community, we reap much more in the friends that we make and in the sense of fulfillment that we get. Therefore, our young minds should be educated in the value of community service.

"Their youthful energies, their boundless enthusiasm, their idealism and creativity can be put to productive years in community work instead of being wasted in gang

violence and other illegal activities. Let us not allow the civic culture to die and future generations will thank us for passing this bill today.

"Thank you, Mr. Speaker."

Representative Yonamine then rose to speak in opposition to the bill, stating:

"If there's anyone here who believes in community service, I'm one of those because I think providing service and helping others in the community is an essential education and growth experience for the students, and we've been doing that. I have done that for a long time, going back at least 20 years.

"But that's not the issue here. In addition to what Representative Moses was saying, I believe this bill, if passed, will be vetoed by the Governor or will be found unconstitutional because of the present statutes. The Board of Education establishes graduation requirements so you cannot have a local SCBM Council who, by the way, doesn't represent the entire community, cannot extend a requirement for community service while other schools do. So because of the differences and variances in terms of the requirements of graduating, I think this bill would be found unconstitutional or will be challenged in court.

"Thank you very much."

Representative Stegmaier then rose in support of the bill, stating:

"The purpose of this bill is to give schools an opportunity to offer an enrichment activity for their students. Students nowadays, adolescents in our society, are plagued with a sense of powerlessness and lack of meaning in their lives.

"What we're doing here is to enable school communities to determine that requiring students to participate in community service is important enough for their students to put together a plan and implement a plan for their students. We're not mandating anything except to have the Department of Education develop some rules to enable school communities to do this.

"There was in opposition one legislator -- one member of the House mentioned that it can be done already. Well if that's the case, how many schools have even attempted to do this? As I understand it, none have, and the reason is that they haven't been encouraged to do this. This is something that requires the partnership of the Department of Education.

"And any program that might be set up by the School Community-Based Management Council that doesn't have the nod of the Department of Education in support, would require an SCBM Council to go through a laborious waiver process, as a first-time school in attempting to do this may well have the same kind of problem that has been experienced by Waialae and Lanikai Schools in attempting to diverge from the traditions of a regular school in the system.

"What we're doing is saying that schools should be empowered in their wisdom to establish such community service programs; however, they might want to do it without the need of a waiver approval from the so-called Central Office. I would ask all members who, as a matter of policy, believe we should be encouraging community service by our secondary students.

"I also believe that we should leave it up to the SCBM Councils at the individual schools to determine the

feasibility of, and the specific aspects of such a graduation requirement. And I would ask that individuals who do support these two concepts, support this bill.

"Thank you."

Representative Moses then rose and stated:

"I wish to rise again in opposition to this bill and to declare a potential conflict of interest which I should have mentioned the first time I rose."

Asked to "state your conflict," Representative Moses answered:

"I'm the Chairman of my SCBM Council at Makakilo Elementary School, and the Chair ruled "no conflict."

Representative Moses continued, stating:

"While I thoroughly believe in SCBM and the process of letting the people decide for themselves, in answer to the Education Chair's comments a minute ago about, if this is already possible, why aren't the SCBM Council doing it, I can offer that it's possibly because there's other problems involved, one of which would be liability.

"Let's say we decided that our students should pick up trash in the parks; what do we do? That's City property -- who pays for the liability? What if we want to transport them somewhere to do this community service -- who pays the transportation costs? And again, who is concerned about the liability? What if we say, scrub graffiti off the walls. Well, isn't that what we tell the bad guys to do? They have to scrub graffiti off the walls. So we're now saying that all the students are doing the same kind of work.

"What if we want to go have them help the elderly? I mean, it can go on and on and on. You have to have the jobs for them to do first. They have to be meaningful, they have to apply somehow to what they're learning in school. If we want to say that just doing community service is a wonderful thing, who's going to argue with that? They can do it today.

"But we're talking here of writing rules that will enable this to become a graduation requirement. And I think we have to address all the other issues that go with this. I'm still in opposition to this bill, Mr. Speaker."

Representative Stegmaier then rose and stated:

"A couple of points in rebuttal to the last speaker who earlier had raised questions about whether there would be the volunteer jobs available and also raised questions about liability.

"My answer would be that if private schools with hundreds of secondary students can do it, public schools with hundreds of students can do it as well."

The motion was put to vote by the Chair and carried, and H.B. No. 1131, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMUNITY SERVICE," passed Third Reading by a vote of 46 ayes to 2 noes, with Representatives Moses and Yonamine voting no, and Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1138, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1138, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PARENTAL RESPONSIBILITY FOR EDUCATION,"

passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 2161, HD 1:

Representative Okamura moved that H.B. No. 2161, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Ito rose in opposition to the bill, stating:

"This bill is unnecessary because it micro-manages our schools. The principal or administration has the responsibility to hire anyone they believe is the best qualified to teach our students. Let management do their job and teachers teach. The HSTA and DOE both oppose this measure and with good reason.

"Thank you."

Representative Kahikina then rose in support of the bill, stating:

"This bill is attempting to address areas in special needs and such as in the case of Waianae district where we see 65% of our teachers with less than three years of experience.

"Mr. Speaker, in remote areas such as Molokai and Kau, we find that we're having a hard time getting qualified teachers. We're not saying that teachers coming out of the University's College of Education are not good. What we're saying is that many of them lack the experience to address a classroom with special needs students.

"This bill is attempting to address and to stop the DOE from practicing in areas such as Waianae, Kau, Molokai, and I ask my colleagues to support it."

Representative Moses then rose in support of the bill and stated:

"I'd like to lend my support to my colleague from the Leeward Coast and echo the fact that there are many schools in rural areas, including on this island, that suffer from teachers' lack of desire to stay at those schools.

"Since we cannot give the teachers merit pay and since we cannot seem to order them to stay, at least this bill goes toward solving the problem by addressing the fact that if these are probationary teachers from that geographical area, that they should be assigned. And if it is impossible to keep the teachers that are there that are not probationary and it is impossible likewise to find probationary teachers from the geographical area, then the Superintendent can say: I have no other choice. And he can assign probationary teachers.

"So it does not preclude assigning probationary teachers. It just makes it difficult to do it without at least sitting down and thinking about: is there an alternative? Some of these schools will desperately suffer if we don't do something. They have been suffering, the community has been suffering.

"The community looks at what the State does and says: they don't really care. Teachers from our community are not assigned, they move away, they put their children in private school. If they don't care about our community, why should we? I ask my colleagues to support this bill."

Representative Kawakami then rose in opposition to the bill, stating:

"Mr. Speaker, while special needs schools need nurturing much more than other regular schools, I would like to take issue that probationary teachers are inexperienced teachers and should not be assigned to these special needs schools.

"I have been a principal for 15 years and I know that the principals do look at the credentials of teachers coming out, and certainly will pick those teachers that can do a good job at their school. And I know many times they may not have all the good teachers that they want, but I feel that this would be discriminating against probationary teachers. I think they have a right to be placed in any school that the principal decides they should go to and they would like to go to.

"Thank you very much."

Representative Takai then rose to speak in support of the bill, stating:

"The Chair of the Education Committee and the members of the Committee for the past two years have dealt with this issue and urged both the Superintendent and the Hawaii State Teachers Association to come to some resolution to the problem that we face right now.

"Right now, we have teachers graduating from the University of Hawaii, starting out as teachers in our school system, mainly going into areas like the Leeward Coast because of the need for teachers in those areas. And we have asked the Superintendent and the teachers union to try to work out ways in which we can keep these teachers in these areas to create some kind of stability for these schools.

"Unfortunately, both sides, even in spite of the recent negotiations, have not come up with any resolution to this matter and I think House Bill 2161 attempts to address it from the standpoint of the Legislature. I think it's very important to note that many teachers, because they're probationary teachers, stay at a school for only two years and immediately after the two years, attempt to leave the schools and go to schools maybe closer to where they live or to so-called non-special needs schools.

"What we're trying to do right now is to try and address the needs of these special schools, ones in which teachers turn over at a rate of every three years, and I wholeheartedly support this measure. I urge my colleagues to support it, and I also urge the Hawaii State Teachers Association and the Superintendent of our school system to continue to resolve this very delicate and difficult issue.

"Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 2161, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 44 ayes to 4 noes, with Representatives Halford, Ito, Kawakami and Yoshinaga voting no, and Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 38, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 38, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 2052:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 2052, entitled: "A BILL FOR AN ACT RELATING TO CREDIT SALES," passed Third Reading by a vote of 46 ayes to 2 noes, with Representatives Meyer and Whalen voting no, and Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1351, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1351, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1856:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1856, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ACCOUNTANCY," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 939, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 939, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INDUSTRY TAXES AND FEES," passed Third Reading by a vote of 47 ayes to 1 no, with Representative McDermott voting no, and Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1853, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1853, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MUTUAL BENEFIT SOCIETIES," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

At 3:57 o'clock p.m., Representative Okamura asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 4:02 o'clock p.m.

H.B. No. 782:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 782, entitled: "A BILL FOR AN ACT RELATING TO THE MOTOR VEHICLE INDUSTRY LICENSING," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 474, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 474, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUM PROPERTY REGIMES," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 794:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 794, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM COMMERCIAL CODE," passed Third

Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1865, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1865, HD 1, entitled: "A BILL FOR AN ACT RELATING TO UNFAIR METHODS OF COMPETITION," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 692, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 692, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CREDIT SALES OF CONSUMER GOODS," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1446, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1446, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FINANCIAL SERVICES LOAN COMPANIES," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1450:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1450, entitled: "A BILL FOR AN ACT RELATING TO FINANCIAL SERVICES LOAN COMPANIES," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1881, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1881, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PEST CONTROL OPERATORS," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 793, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 793, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUM PROPERTY REGIMES," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 2027, HD 1:

Representative Okamura moved that H.B. No. 2027, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Tarnas rose in support of the measure with reservations and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Tarnas' remarks are as follows:

"This measure changes the definition of wastewater to exclude 'treated effluent' or 'reclaimed water.' The Department of Health submitted testimony in opposition to this bill because they are currently drafting rules to regulate the use of treated effluent.

"This matter should be handled in the rule-making process. In addition, this bill may provide unwarranted protection to the City and County of Honolulu as they respond to a recent lawsuit on this matter."

Representative Yoshinaga submitted the following comments to be inserted into the Journal:

"Mr. Speaker, I rise to speak in support of House Bill No. 2027, HD1.

"We are fortunate that Hawaii is blessed with an abundance of fresh water. It is important that we better manage our precious resource, because the demand for water increases as the population of the state grows. This is especially true on Oahu, Maui and West Hawaii, where the availability of fresh water is becoming scarce.

"In fact, water is becoming so scarce that the federal government is now requiring the City and County of Honolulu, through a consent decree, to reclaim 2,000,000 gallons per day by 1998 and 5,000,000 gallons per day by 1999 and 10,000,000 gallons per day by 2001. The law needs to be amended to recognize and facilitate the reclamation of water.

"We need to look at the reuse of wastewater as an additional resource for agricultural and irrigation uses. Our sewage treatment plants generate more than 157 million gallons per day of wastewater and currently this is disposed of rather than reused and considered as a resource. For example, reclaimed water can be used for golf courses and agricultural irrigation.

"The current Department of Health (DOH) water regulations are inadequate because they do not currently recognize the definition and beneficial uses of reclaimed water. In order to fully utilize reclaimed water as a resource, a statutory change is needed to include 'reclaimed water.' HB 2027, HD1, would provide the legal basis for the DOH to promulgate rules and regulations that pertain to reclaimed water. DOH regulations must also be revised to specify specific criteria and beneficial uses.

"Currently, state law only recognizes 'wastewater,' which is a restrictive term that was enacted at a time when wastewater was considered only for disposal. Under current law, even a tiny spill of highly treated water that is perfectly safe could result in a violation. The regulations need to clarify issues of liability and third party suits relating to wastewater spills and overflows in order to facilitate the reuse of water.

"It is imperative that Hawaii look at water reuse as an additional resource. Without change, we would have to build more facilities for wastewater disposal, an expensive proposition. Therefore, water reuse offers us an opportunity to protect the environment and at the same time provide benefits to agriculture and landscape industries, including golf courses. This would free up fresh water for other uses.

"I urge all of my colleagues to join me in supporting this bill."

The motion was put to vote by the Chair and carried, and H.B. No. 2027, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WASTEWATER REUSE," passed Third Reading by a vote of 46 ayes to 2 noes, with Representatives Morita and M. Oshiro voting no, and Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1292, HD 1:

Representative Okamura moved that H.B. No. 1292, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Yoshinaga submitted the following comments to be inserted into the Journal:

"Mr. Speaker, I rise to speak in support of HB 1292, HD1.

"Every year, Mr. Speaker, endangered species are being lost forever. Because Hawaii is the most isolated land mass on Earth, most of our native plants and animals are found nowhere else in the world. As a result of the activities of people, there has been an epidemic of extinction and endangerment among our native plants and animals.

"Nearly three quarters of the extinctions in the United States are from Hawaii, and nearly 40% of the endangered plants and birds in the U.S. are Hawaiian species. There were over 200 species listed as endangered by the Federal government during the period from 1991 to 1995. This dramatic increase in listing of species reflects a very real crisis in the survival of our unique Hawaiian plants and animals. It also has had a profound impact on land use issues in the State on both public and private lands.

"HB 1292, HD1, allows for the sale or possession of selected threatened and endangered plants that have been grown from cultivated stock. Encouraging cultivation of endangered plant species will increase public support and understanding of our natural heritage. Last year this measure was passed by both houses, but vetoed by the Governor on a technical flaw.

"The Hawaii's Endangered Species Act, HRS Chapter 195D, does provide some protection for endangered native plants, but your Committee on Energy and Environmental Protection finds that it does not adequately protect endangered species.

"This measure opens the discussion for private landowners to voluntarily recover and protect endangered species on their properties, this creates an opportunity for the survival of many endangered species that would not otherwise be protected.

"Our goal is to strike a compromise that encourages our citizens, in partnership with the state, to help preserve our endangered species. Greater voluntary involvement of the private sector could be achieved by providing positive incentives for land owners to take actions to protect and conserve threatened and endangered species and their habitats.

"The Energy and Environmental Protection Committee's objective is to find a compromise that would provide incentives to landowners to voluntarily cooperate with the State to help preserve endangered species.

"The Chair is open and willing to continue the discussion on this very important environmental issue. It is important to keep a House vehicle alive to assure that the productive dialogue on these issues can continue, and I urge all members to vote in support of this measure."

The motion was put to vote by the Chair and carried, and H.B. No. 1292, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ENVIRONMENT," passed Third Reading by a vote of 47 ayes to 1 no, with Representative Thielen voting no, and Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 454, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 454, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND USE," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 71, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 71, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTION AGENCIES," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 367, HD 1:

Representative Okamura moved that H.B. No. 367, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Herkes rose and stated:

"Mr. Chair, on House Bill 367, yes with reservations," and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and H.B. No. 367, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LIQUOR," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 791, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 791, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMERCIAL PAPER," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 963, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 963, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRADEMARK COUNTERFEITING," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1975, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1975, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LANDLORDS," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1549, HD 1:

Representative Okamura moved that H.B. No. 1549, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Tarnas rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Tarnas' remarks are as follows:

"The measure before us supports our local fishermen and ensures that fish sold under the Hawaiian name are truly landed in Hawaii - not imported. If these fish are

imported, they shall need to be described clearly as imported.

"I understand that many restaurants would oppose this because of the difficulty in changing any text in the menu. Because of this challenge, I encourage the restaurant operators to work with the Department of Land and Natural Resources and Department of Agriculture and Department of Commerce and Consumer Affairs to figure out a way to ensure compliance with the existing 'truth in menu' laws.

"This bill strengthens the truth in labeling for Hawaiian aquatic food. In addition, this bill is aimed at ensuring that dealers in aquatic food are selling these products with truthful disclosure of their origin."

The motion was put to vote by the Chair and carried, and H.B. No. 1549, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LABELING," passed Third Reading by a vote of 43 ayes to 5 noes, with Representatives Chang, Goodenow, Herkes, Morihara and Takai voting no, and Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1538, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1538, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FORECLOSURES," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 777, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 777, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PLANNED COMMUNITY ASSOCIATIONS," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1588, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1588, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD SUPPORT ENFORCEMENT," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 789, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 789, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FIREARMS," passed Third Reading by a vote of 47 ayes to 1 no, with Representative Thielen voting no, and Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 179, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 179, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PORNOGRAPHY," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1300, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1300, HD 1, entitled: "A BILL FOR AN ACT RELATING TO

CRIME," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1604, HD 1:

Representative Okamura moved that H.B. No. 1604, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Fox rose to speak in strong support of the bill, stating:

"Truth-in-sentencing was to make it possible to get federal funds to support our prison system.

"Thank you."

Representative Moses then rose in support of the bill, and the Chair "so ordered."

Representative Tom rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Tom's remarks are as follows:

"Mr. Speaker, in your opening day remarks, you correctly stated that the fact that times are tough is no excuse for crime. Simply put, if you do the crime, you've got to do the time.

"This is necessary, appropriate and in keeping with the public's perception that people who commit a crime are not serving meaningful prison time. The public, concerned for its safety, is demanding tougher sentences, especially for violent and repeat offenders.

"Early release programs are increasingly being implemented in response to prison overcrowding, court ordered population ceilings and other population management control practices. Our experience even includes sending certain inmates to out of state facilities.

"This need for additional confinement space is unlikely to abate as our correctional system projects the need for at least 1,000 additional beds by the year 2004.

"The Federal Violent Crime Control and Law Enforcement Act which contains the Violent Offender Incarceration and Truth-in-Sentencing Incentive Grants Program addresses this issue. The primary purpose of this program is to provide funds to the State to build or expand correctional facilities to increase the bed capacity for the confinement of violent criminals.

"States are eligible for these funds if they can demonstrate that they have implemented truth-in-sentencing laws which require that persons convicted of violent crimes serve not less than 85 percent of the sentence imposed.

"Truth-in-sentencing is a popular and necessary concept whose time has come. H.B. 1604, HD1, implements truth-in-sentencing. Violent felons will have to serve at least 85% of their sentence before being eligible for parole. The range in which a court may sentence a violent felon for a class A offense is set between 12 to 20 years and for a class B offense between 7 to 10 years. Correspondingly, minimum mandatory sentences for violent repeat felons, for those who use a firearm and for those who prey upon the elderly, disabled or very young are raised above the 85% threshold.

"The effective date is set for July 1, 1998 in order for the system to prepare for the increased need for bed

space. All other provisions of the current law will remain intact, but subject to the requirements of truth-in-sentencing.

"This bill meets the requirements of the federal mandate. It will allow our State to receive much needed federal dollars to build and expand prison facilities to confine violent felons. It will address the public's demand for tougher sentences for violent offenders. This bill is responsible in that it does not invite further court ordered prison population limits or the pell mell early release of convicted felons because of overcrowded conditions.

"Those of you who have followed the House Judiciary Committee know that we are particularly concerned with appropriate and meaningful punishment for repeat and violent felons. HB 1604, HD1, is in keeping with this concern, and I urge my colleagues to fully support this important measure."

Representative Pendleton rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Pendleton's remarks are as follows:

"Mr. Speaker, I rise in support of House Bill 1604, House Draft 1.

"Mr. Speaker, this legislation relates to the disposition of convicted defendants.

"Commonly referred to as truth-in-sentencing, this legislation follows that of many other states. The purpose is to ensure that convicts serve more of their time.

"What a travesty it is to sentence murderers to twenty years only to have them regularly serve half of the time. Such practice makes a mockery of our court system, diminishes public confidence in the Legislature's resolve to be serious when it comes to crime, and it teaches would-be criminals that there are no consequences for one's wrong deeds.

"Mr. Speaker, under the present system, when a convicted felon is sentenced under our statutes, the sentencing judge really has little discretion. Although he or she is the most qualified to sentence a convict, he or she is stripped of such authority and limited to stating a maximum term. Thereafter, the discretionary power is vested in an unelected, unknown or practically unknown, parole board. This small group is selected by the Governor and is essentially unaccountable to the populace.

"Now, House Bill 1604 will change this. The people, through their elected representatives, are mandating that 85% of a convicts sentence be served. This is a substantial step in the right direction.

"This bill will give judges the discretion to tailor the maximum sentence in felonies to fit the crime. The bill will result in tougher and longer sentences.

"I am pleased that this bill is passing through this body. I support H.B. 1604 wholeheartedly and urge my colleagues to do the same."

Representative Yoshinaga submitted the following comments to be inserted into the Journal:

"Mr. Speaker, I rise to speak in support of House Bill No. 1604, HD1 (HSCR No. 985).

"Mr. Speaker, I believe that what we have before us is a measure that earnestly seeks to fortify our present

criminal justice system. In the midst of the crime activities that have run rampant in our communities, and in the midst of crime activities that have produced fear which cripples our citizens and produces a sense of powerlessness, we need to put back into our criminal justice system a measure of confidence for the sake of all citizens in this state.

"What Hawaii needs is a system that deals swiftly with the perpetrators of crime in this State. We need to put such perpetrators on notice that we'll no longer tolerate their activities. This bill holds forth the idea that 'swift and certain consequences' will curb and deter crime activities. The 'truth-in-sentencing' initiative that this bill seeks to implement, by mandating that all felons serve at least 85% of imprisonment time, will put back into the system a measure of deterrence. Mr. Speaker, I believe that House Bill No. 1604 will do just that.

"At present, there is an outcry that our streets are not safe. Our present criminal justice system is ailing; our citizens are suffering losses and are paying with their own lives, properties or both. We need to turn this matter around. Surely we need more prison space, but we also need a system that administers tough discipline for perpetrators of crime in our communities. We need to implement a 'get-tough' policy at the front end of our criminal justice system so as to discourage or curb future or potential acts of crime against our citizens. We have the opportunity to do so with H.B. No. 1604, HD1.

"In the long run, implementing the 'truth-in-sentencing' initiative under H.B. No. 1604, HD1, means that incarcerating a felon for 85% of his imprisonment sentence keeps said individual off the street and out of the community. In effect, it keeps that individual from committing more crimes; it keeps dangerous criminals incarcerated longer.

"James Wootton of the Heritage Foundation in Washington, D.C. once wrote: 'Incarceration incapacitates violent criminals, and directly benefits law-abiding Americans, by protecting families and also by yielding greater financial savings from reduced crime than the cost of crime itself.' To state the matter more frankly, 'stepped-up imprisonment...deters crime,' wrote Wootton.

"What effect then does H.B. No. 1604, HD1, have for our immediate community? It means safer streets and neighborhoods. It means that the savings in cost to our government for incarcerating felons will be greater than the cost our taxpayers will have to pay for the crimes committed daily in our streets. It means that we can eventually look forward to healthy and safe communities for ourselves and for our children.

I urge all of my colleagues to join me in supporting this bill. Thank you, Mr. Speaker, for allowing me to speak on behalf of H.B. No. 1604, HD1."

Representative Kawanakoa rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Kawanakoa's remarks are as follows:

"Mr. Speaker, I rise in strong support of House Bill 1604, House Draft 1. We in this House determine the laws that separate right from wrong. Yet we oversee a system that has deceived the general public. When is twenty years only five years? When you don't have truth in sentencing. Even under this current bill, 20 years is only guaranteed to be 17 years, and only for violent felons.

"I urge passage of this bill."

The motion was put to vote by the Chair and carried, and H.B. No. 1604, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DISPOSITION OF CONVICTED DEFENDANTS," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 2308, HD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 2308, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PROBATE," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 2305:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 2305, entitled: "A BILL FOR AN ACT RELATING TO FORGERY," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1087, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1087, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONS," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 396, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 396, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FIREARMS," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1387, HD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.B. No. 1387, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE DRIVER LICENSING," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

H.B. No. 1453, HD 1:

Representative Okamura moved that H.B. No. 1453, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Thielen rose and asked the Clerk to enter an aye with reservations for her on this bill, and the Chair "so ordered."

Representative Pendleton then rose and asked the Clerk to enter an aye with reservations for him on this bill, and the Chair "so ordered."

Representative Pendleton continued, saying:

"Mr. Speaker, just a brief word. I have no problem with motorsports insurance and with the general intent of this bill. My concern has to do with the irrefutable presumption and I'm not sure that it's a wise policy to ever making anything irrefutable.

"Thank you, Mr. Speaker."

Representative Yamane rose in support of the measure with reservations and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Yamane's remarks are as follows:

"This bill, even as amended, goes too far in granting owners, operators, and promoters waiver of liability. The HD1 states that signing a waiver shall 'create an irrebuttable presumption that the person signing the document read and understood the document' except in cases of 'gross negligence, wilful and wanton conduct, or [other] intentional acts.' This assumption of risk is an extreme measure and places an unfair burden on motorsports events participants.

"I also have questions about what impact this bill will have on insurance carriers. Would rates for motorsports owners/operators and for participants need to be adjusted to reflect changes in the distribution of risk? These questions were not answered in Committee and I therefore have serious reservations about the bill."

The motion was put to vote by the Chair and carried, and H.B. No. 1453, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTORSPORTS INSURANCE," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Souki and Takamine being excused.

The Chair directed the Clerk to note that H.B. Nos. 411, 125, 472, 1691, 1692, 1689, 1686, 1639, 1031, 2137, 1382, 1406, 952, 1589, 1590, 2163, 1132, 1131, 1138, 2161, 38, 2052, 1351, 1856, 939, 1853., 782, 474, 794, 1865, 692, 1446, 1450, 1881, 793, 2027, 1292, 454, 71, 367, 791, 963, 1975, 1549, 1538, 777, 1588, 789, 179, 1300, 1604, 2308, 2305, 1087, 396, 1387 and 1453 had passed Third Reading at 4:10 o'clock p.m.

At 4:11 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 4:25 o'clock p.m., the Speaker resumed the rostrum.

MATTERS DEFERRED TO THE END OF THE CALENDAR

Stand. Com. Rep. No. 708 and H.B. No. 1801, HD 1:

By unanimous consent, action was deferred to the end of the calendar. (To be taken with H.B. No. 145, HD 1.)

At 4:26 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 4:27 o'clock p.m.

Stand. Com. Rep. No. 740 and H.B. No. 1712, HD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1712, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Case rose and stated:

"I rise in support of this measure.

"I will have some further remarks on a later bill regarding the assistance we're trying to provide to the Department of Hawaiian Home Lands. I simply want to

note here that this is one very important ingredient in our overall effort to forward the mission of the Department of Hawaiian Home Lands.

"This essentially gives DHHL substantially more flexibility to put roughly 3,000 more native Hawaiians onto the Hawaiian Home Lands over the next five years, which is an ambitious but very realizable goal. This provides the Department of Hawaiian Home Lands with the ability to implement rent-to-own programs, creative financing and, generally, allows them to more fully satisfy their mission. So I urge the passage of this bill."

The motion was put by vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1712, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED," passed Third Reading by a vote of 49 ayes, with Representatives Cachola and Menor being excused.

The Chair directed the Clerk to note that H.B. No. 1712 had passed Third Reading at 4:29 o'clock p.m.

Stand. Com. Rep. No. 1014 and H.B. No. 88, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 88, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Herkes rose in opposition to the bill, stating:

"Any traffic fatality is a tragedy. I think we all recognize that. Even more so if they're children, so how can anyone argue against a bill whose stated purpose is to save lives, especially the lives of children?"

"Let me try to explain. First, Mr. Speaker, let me disclose that I own a pick-up truck, it is my personal means of transportation, no one rides in the back of my truck. That is a personal decision that I have made, it is a matter of personal responsibility.

"I believe that sometimes the Minority refers to it as power to the people. Like many of you, I cringe when I see a pick-up truck loaded with youngsters careening down a street. Now I acknowledge that I have another vehicle available to me so that I am not faced with the problem of being a single car family with dependent children.

"However, many of the people that I represent are just that. Displaced sugar workers going through a change in circumstances with just one vehicle in the family, most often that is a pick-up truck. They use it for hunting, they use it for fishing, they use it for their work, they use it to take the family to the beach or to ball games. They cannot afford another vehicle. They can't even afford the insurance on that vehicle. In the areas that I represent, there is no public transportation so they have no options.

"Now let's look at the bill. First, there is no finding of fact or purpose section. In the subject matter Committee report, it states: 'The bill is to prevent injuries and deaths of passengers riding in the beds of pick-up trucks.' It states further that: 'Your Committee finds that passengers riding in the beds of pick-up trucks are at increased risk of injuries and fatalities from falling or being ejected from these vehicles as compared to passengers riding inside vehicles. Your Committee further finds that in 1996, 5 people were killed and an estimated 50 people were hospitalized for serious injuries.'

"Please note that nowhere in the report does it give any indication of contributing causes such as drunken driving,

speeding, driving under the influence of drugs, or simply speaking, how many of these accidents were caused by the negligence of the driver?

"Let's go back to the stated purpose of the bill. The compelling State interest that drives this piece of legislation, and again I quote: 'The bill is to prevent injuries and deaths of passengers riding in the beds of pick-up trucks.' Let's put this into context. In 1996, there were 5 people killed as a result of an accident while they're riding in the back of a pick-up truck. During the same period, 30 pedestrians were killed by automobiles, 5 people were killed by riding bicycles, 19 people were killed riding motorcycles, and worst of all, 92 people in this State in 1996 were killed in an automobile accident.

"Mr. Speaker, that's almost twice as many people as there are in this Chamber. We also lost people picking opihi, surfing, hiking, flying and other activities. Mr. Speaker and members, we are at risk in almost everything that we do.

"Now let's follow the reasoning of the Committee report. We want to prevent this, what is our next target? Pedestrians. It is clearly more dangerous to walk than it is to ride in the back of a pick-up truck. One of my colleagues said it would be safer if those pedestrians were in the back of a pick-up truck. Do we ban bicycles? They are clearly as dangerous as riding in the back of a pick-up truck. Do we ban motorcycles? Jerry, you're next. They're also clearly more dangerous than to ride in the back of a pick-up truck.

Mr. Speaker, do we ban opihi picking? Do we ban surfing, hiking and flying? I think not, and why not? Because these bans would have too big an impact on our urban constituents and they would never fly.

"I saw a report on television the other day that 13% of the people in this nation are 65 and over, but they account for 17% of the traffic fatalities. I guess we're next to be denied this necessary privilege.

"The other night I had dinner with a friend of ours who's a noted surgeon in California. He's also a rancher and he's been following this issue in the press while he's been here on vacation. His comment: This happens all the time in California. The urban people decide what's best for the rural folks and they have the numbers to make it stick.

"The supporter of the bill told me that if we pass this, at least it will make us feel good. Is that what we're here for -- to make us feel good? The Department of Health supported this bill and one of the reasons that they gave is that it will be easy to enforce. Is that a criteria for passing a piece of legislation?

"The DOH also testified that the back of pick-up trucks is not designed to carry people. I asked him of his opinion about a horse -- if it were properly designed to carry people. I think not, but he declined to answer.

"Testimony was also received that we cannot control our children. They get together with friends, party and they ride in the back of pick-up trucks. We cannot control our children. Let me repeat that: we cannot control our children. Is this a good reason to penalize rural residents because we cannot control our children?

"There are five exceptions to the bill. One of them reads, and I quote: 'The operator is a person or corporation' and I got a picture of a corporation driving a pick-up truck, but let me repeat: 'The operator is a person or corporation operating a business or businesses that serve the public who or which are subject to the

jurisdiction, supervision and rules prescribed by the State agencies, the departments or by their agents or employees when engaged in the business of the persons or corporations.' Who are we taking care of here? And what does that mean?

"If riding in the back of a pick-up truck is so damned dangerous, Mr. Speaker, why are there any exceptions? Where is the bail out in the bill? Any County Council can act, can opt to get out of the act. Sure, let's pass the tough one to them under the guise of home rule. I don't buy it.

"If it were enabling legislation giving the counties the opportunity to opt in, perhaps I could support this. If we had this same protectionist attitude 200 years ago, Mr. Speaker, I'm sure that we would have banned riding in the back of the vehicles that traversed this country as we settled this great nation of ours. The Polynesians probably never would have started on their magnificent voyages of discovery in the Pacific, and we never ever would have walked on the moon.

"The other day, as I was riding down here, I saw a pick-up truck loaded with case goods in the back of it and with a couple of passengers. Here's a small business person taking some case goods to a business and the people in the back are going to unload the product and probably install it. This is a small business guy who, under this bill, now would have to have another vehicle in order to take the workers along.

"I was teaching a class in government to a group of Ka'u adults during the recess. They were trying to get their high school accreditation. I told them about the bill and they were in utter disbelief. These are hard-working, everyday folks. They do not have the time nor the resources to come over here and express their views."

At this point, Representative M. Oshiro rose and yielded his time to Representative Herkes.

Representative Herkes thanked the Chair and continued, stating:

"I wish the hearing had been held in Kohala or Kaunakakai or Kapaa and perhaps the Committees would have had a different view of the social impact of this bill.

"These hardworking people in these rural areas, they trust us to do what is fair and they trust us to do what is right. Mr. Speaker, for the folks in rural areas and for the small business folks, this bill is neither fair nor is it right."

Representative Hiraki then rose in support of the bill and stated:

"This bill will, with some exceptions, ban passengers from riding in the back of pick-up trucks. Again, I wanted to thank the Judiciary Committee for their support in passing this measure.

"Mr. Speaker, it is unfortunate that just last week, while we were deliberating this bill, three children and one adult were seriously injured when they were tossed out of the back of a pick-up that was involved in an accident on H-2. These children, Mr. Speaker, were medivaced to Queen's Medical Center.

"Why do we need this bill? I say it's all in the numbers. Look at the statistics. You look at the Honolulu Police Department crash data from 1986 to 1993, more than 200 individuals were ejected from truck beds, 6 were killed, 44 suffered incapacitating injuries which are near fatal injuries such as trauma to the head

and injuries that will lead to a permanent disability. Out of the 200, a total of 170 were injured, 90% of those ejected from the truck beds were injured. In 1996, 5 individuals died. Those are the statistics, Mr. Speaker.

"Currently, 22 states ban riding in the back of pick-ups. Clearly the most effective measure will be as the previous speaker said: all passengers in the back of pick-ups. However, in the spirit of addressing members' concerns, we do provide exemptions for business, agricultural enterprises, and even allow the counties to provide exemptions based on need. Even with accommodations, some would still disagree, raising several objections.

"Well, what about freedom of choice to ride in the back of a truck? I believe that's a good argument as long as one's actions don't adversely affect others. When a teenager suffers serious injuries, when he or she is thrown out of the back of a pick-up, who pays the estimated \$4 million in medical costs? Not the teenager, but in most cases, the insurance companies, the hospitals, us -- the government -- and ultimately out of our pockets in the form of higher premiums or taxes. Rural or urban, we are all in this together.

"What about the fact that less people are injured riding in the pick-ups as compared with opihi pickers or people who ride on bicycles? I find that those kinds of comparisons, Mr. Speaker, are really irrelevant in a discussion on the measure at hand.

"What are we supposed to do? Delay passing this protective measure until we meet the requisite number of people maimed or killed and then pass the legislation? I think not. Let's deal with what we have before us, and what we have before us is a bill that will, plain and simple, save lives.

"As Health Director Miike commented on this bill, 'there are so few laws, so easy to implement when forced, which can have such an impact in saving lives and health care costs.'

"What about the impact this bill has on financially strapped people who can only afford to use a pick-up to transport family members because they cannot afford a car? Again, as I mentioned, in the spirit of compromise, the bill was amended to allow counties to provide exemptions to those so situated based on hardship.

"But to me personally, Mr. Speaker, we should avoid such exemptions on the belief that rich or poor, a life is a life and we should not be providing less protection to people just because they are poor.

"In conclusion, Mr. Speaker, I support House Bill 88 and hope members of this House will also support this measure.

"Thank you."

Representative Kahikina then rose and stated:

"I stand in opposition of the said measure. My opposition does not argue the intent of this measure which is to provide a safe mode of transportation for passengers of pick-ups, but with the economical ramifications which this bill will have on our citizens. Many of us come from economically depressed and agricultural areas where the only mode of transportation, which is affordable for the entire family, is a truck.

"In lieu of prohibition, I ask that we implement and enforce safer driving conditions such as age limitations of passengers, requiring adult supervision when carrying

passengers, harsher penalties for drivers who are involved in reckless and endangering, and lowering the speed limit for trucks transporting passengers.

"I don't pretend to know where the answer lies, but I ask this body to consider an alternative method in addressing this issue.

"Thank you."

Representative Lee then rose to speak in favor of the bill, stating:

"All of us feel some nostalgia for the days when it was possible to ride safely along country roads to the beach or to picnic.

"On Oahu, however, this is no longer possible. It is common to see both children and adults riding in the back of pickup trucks traveling over 60 miles an hour.

"Anyone of you who heard the testimony of Karl Kim, U.H. Safety Researcher at the recent Judiciary hearing, should be horrified at the statistics related to pickup truck accidents.

"Once you have seen the results of an accident involving young children in the back of a truck, you know this bill is needed.

"This issue is no longer a matter of personal choice. The cost of this kind of accident is not only related to immediate acute care, but also years of rehabilitation and special training for victims of head injury.

"Last Sunday, when I was working at the emergency room at the hospital, another pickup truck accident occurred. It wasn't pretty. Luckily, it wasn't fatal, but it provided another reminder to me of why we need to pass this measure now."

Representative Tarnas then rose and stated:

"I rise in opposition to this bill, just to say a few words. I commend the efforts of the Transportation Committee Chair and his hard work in trying to come up with a bill that does meet the concerns of rural districts in this State.

"However, I must oppose the bill primarily because of the demographics of my district and the large number of families that do depend on pick-ups for their transportation of individuals and their family.

"So I guess you could consider this as the first step in having the County of Hawaii begin the exemption process, because I think that's really the direction that our county would go. So I do commend your efforts, however, I must really represent the people in my district by voting no on this measure."

Representative Hamakawa then rose and stated:

"Having been convinced by the words of my colleague from Puna, I wish to vote no."

Representative Meyer then rose to speak against the bill, stating:

"Unlike the previous two speakers, I'm afraid that if this bill passed and Honolulu, the City and County of Honolulu, being of such an urban nature, that my constituents out in the country and many of them with large families, one car, a truck, would not be able to get around.

"I have here about ten letters from juniors from Kahuku High School. As this one boy says, he doesn't think the government should decide how or if people should ride in the back of a truck. 'I think that people are able to make their own decisions as to how dangerously they want to live.'

"Another girl says, 'People use trucks to carry things as well as their family; a lot of people have big families and a truck to carry them where they need to go.'

"Another youngster says, 'I know a lot of families who have trucks here on the North Shore and rely on them for family transportation.'

"I don't think it's appropriate that we put those people in that position.

"Thank you, Mr. Speaker."

Representative McDermott then rose to speak against the bill, stating:

"Mr. Speaker, I oppose the measure on principle. I think that's all I need to say. But that being said that I'm against it, I would like to commend Representative Marumoto for her 13 years of hard work trying to get this issue passed. I can respect that.

"Thank you."

Representative Arakaki then rose to speak in favor of the bill, stating:

"I've also introduced similar measures in the past along with Representative Marumoto. The bill that I introduced this year was, of course, limited to children and teenagers being protected. And I think that's really the thrust of this bill as well, and the reason why we need to pass such a bill is because, when it comes to safety, we have to look after the children, because in many cases they don't have any choice.

"When a child is told to get in back of a pick-up truck, unlike an adult, it's very unlikely that they are going to refuse. So they don't have any choice when a father, a coach or anyone else tells them they have to ride in the back of a pick-up truck. And it's unlike any of these deaths that were mentioned before.

"Adults do have choices and if they make the wrong choice, then they can take responsibility for it. However, when it comes to our children, they have to take their lead from us. They have to entrust their lives with us and I think it's incumbent upon us to provide as much safety as we can. And if we put them at risk, then we're accountable.

"A couple years ago, I was coming home from an OIA championship game at the Aloha Stadium. I was following a truckload of teenagers from Kahuku, and the road was slick and I actually saw this truck spin around three times and roll over once. And during the spinning and the rolling over, I saw five kids fly out from the back of the bed of this truck. Fortunately, none of them were killed, but I saw two of them actually fly into the median strip and suffer serious head injuries.

"And you know, when you witness something like that, you just wonder why we allow things like that to happen. So I think we need to look past convenience and past what people can afford. Affordability is not the issue, it's a life we're talking about. And we have the responsibility as policymakers to ensure that we don't place young lives at risk unnecessarily. So I ask everyone to support this bill."

Representative Fox then rose to speak in favor of the bill, stating:

"I think that it's very important what the Representative just said. We have to craft a bill that protects the children, the keiki of Hawaii. Children are, according to Linda Rosen who's head of the Keiki Injury Prevention Coalition, seven times more likely to die as a result of being thrown from a pick-up truck than adults.

"We have safety belt, seat belt regulations to take care of our keiki. We ought to do the same to the back of pick-up trucks. We ought to require that keikis in the back of pick-up trucks be strapped in or not be there.

"Fortunately, this bill which offers the county an option, gives us an ability at the county level to craft whatever kind of bill that will take care of our keiki. I am in support of this bill.

"Thank you."

Representative Takumi then rose in support of the bill and asked that the "remarks of my colleague from Kalihi be entered into the Journal as if they were my own, and add a few comments of my own," and the Chair "so ordered."

Representative Takumi continued, saying:

"The previous speaker said this was a matter of personal choice. It's also a matter of personal responsibility, and when people do not exercise personal responsibility, that is where I think as policymakers we must step in.

"For example, our seat belt laws or laws that were requirements on the job for safety equipment such as hard hats at a construction site, we don't make these optional. It is not a matter of personal choice. About exceptions, we do it all time. For example, those who ride on City buses are not required to wear seat belts. We carved out an exception to the seat belt law.

"About other hazardous activities such as scuba diving, hang gliding or rollerblading, there is a critical difference. Driving, for the most part, is a necessity of daily life, unlike purely recreational activities. Most of us do not hang glide to work, for example.

"This bill is a reasonable compromise which tries to balance the concerns expressed by all parties. Indeed, the Judiciary Chair and his Committee crafted a section which gives counties the authority to make exceptions. In fact, for example, if the County Council of the Big Island wanted to make an exception for those who live in rural areas or those whose only vehicle is a pick-up truck or those whose income level is at a certain level, they would be certainly free to do so.

"This bill is a reasonable one and I would urge all my colleagues to support it. Thank you.

Representative White then rose and stated:

"Mr. Speaker, I rise in support with substantial reservations. I agree with the safety concerns here, but I think it would be much more palatable to those of us from the neighbor islands that this bill provide the counties to opt in as opposed to opt out.

"Thank you, Mr. Speaker."

Representative Whalen then rose to speak in opposition to the bill, stating:

"I will try to make it brief. I agree with both Representative Herkes and Representative White and would like their comments to be submitted as my own," and the Chair "so ordered." (By reference only.)

Representative Whalen continued, saying:

"I would just like to point out that, you know, if you think of this argument, Representative Herkes brought forth facts and figures very specific as to why we should not be bound by this law. The argument is very persuasive because it's very emotional. When you hear a story about someone who has a head injury or dies, especially a child, it moves your heart.

"But the reality of it, if we're going to follow that thinking and reasoning out, Mr. Speaker, is that there was almost a hundred deaths in a vehicle. If one death we should prevent, how much more should we prevent the 92? If we're going to follow this thinking and analysis out to the end, we should ban vehicular traffic, period, because every life is valuable, every life is worth protecting.

"And the other argument that I heard, that we have a choice, the pursuit of happiness, to make choices for ourselves, so long as it doesn't affect others. And the money that is spent to take care of one person with a head injury is \$4 million. Look at cigarette smoking for a second. There's billions of dollars that are spent every year on people who suffer from the effects of cigarette smoking. Yet all we do, and I'm not trying to beat that dead dog over there, is tax it. We don't ban it, we don't restrict it or anything else, all we do is tax it. Why? Because there's public outcry.

"Here, the public outcry from the neighbor islands is not strong enough to reach this House in Honolulu, which is surrounded with cement. I appreciate the Chair of Judiciary that allowed the counties to opt out, but as Representative White said, we should be allowed to opt in to what this City wants and not be forced to wiggle our way out of what the City is trying to force upon us."

Representative Kanoho then rose and stated:

"I wish to speak in support of the bill but with severe reservations. I probably would vote no had I not been Safety Director for one of the largest firms in the State of Hawaii for 13 years. My conscience would not allow me to vote no. And yet a good part of me tells me that I would like to continue as an owner of a pick-up truck to continue in those few instances where it would be more convenient and beneficial for my family.

"More than anything else as we operate any kind of vehicle, is driving within the speed limit and driving with care that makes a difference. And I think that there's no way that we can substitute a bill for good judgment.

"Thank you."

Representative Pendleton then rose to speak in support of the bill, stating:

"Mr. Speaker, we've heard a number of arguments from both sides of the aisle on both sides of this issue. And I've heard, suggested by some, that the emotional argument is in favor and is the clear headed, carefully thought through position which is opposed, that the democratic position is opposed.

"Mr. Speaker, I think that there are strong economic arguments. If the moral arguments are not persuasive enough to convince someone to vote in favor of protecting

our children from being placed in dangerous places in the backs of pick-up trucks that are moving on roads, if the moral arguments aren't persuasive enough, the economic arguments, I think, certainly are.

"This Committee received testimony from the Hawaii Insurance Council, AIG Hawaii Insurance Company, the Honolulu Police Department and a number of other groups. The groups that I have just cited provided information which indicated that there are tremendous costs involved with having to treat people, especially children, with traumatic brain injuries, when they get involved in accidents. When they are placed here in the back of a truck.

"I think that it's important to recognize that this will cause some inconvenience to certain individuals who only own trucks, but the tremendous cost savings, economically, I think far outweigh those incidental inconveniences. And for the most part, what is the price of a life? If all it this does is save a few children from being killed because their parents have them out in the back of a truck, then I think the benefits far outweigh the burdens.

"Thank you, Mr. Speaker."

Representative Marumoto then rose to speak in favor of the bill, stating:

"So many people have expressed the arguments so eloquently on both sides of the issue. But I must really commend the people who spoke in favor of this measure and the Representative from Kalihi and the Representatives from Waikiki, Mililani, Maunawili, and wherever Representative Takumi hails from, I'm not sure, I would like to have their remarks taken as my own," and the Chair "so ordered." (By reference only.)

Representative Marumoto continued, saying:

"I just want to stress one point. There's oodles of arguments and figures and statistics to bolster the argument to ban riding in the back of pick-up trucks. But I just wanted to point out that the health care associations' testimony said that their legislative policy is to support measures that reduce preventable illnesses and accidents.

"We are concerned more than with reducing unnecessary health care costs. Hospital beds are resources that are used for preventable illnesses and injuries and are not available for others who may need them. For example, there are occasions when hospital emergency rooms are operating at capacity and ambulances must be diverted to other facilities.

"Situations like this can put Hawaii citizens and visitors at additional risk. We try to be sensitive to the plight of neighbor islanders, but I must remind them that they are farther away from trauma centers and when there are serious injuries, they most likely have to be medivaced to Queens, right here across the street.

"I certainly wish people would be more responsible, but that doesn't happen. I wish parents could exercise more control, but that doesn't happen either.

"In closing, I just want to thank the Chair of the Keiki Caucus, Representative Arakaki; the Chair of the House Transportation Committee; and the Chair of the Judiciary and their respective Committees.

"Thank you very much."

Representative Yonamine then rose and stated:

"Mr. Speaker, please record a yes vote with reservations. I believe the real problem is the driver and not the passengers, no matter what their age.

"Thank you."

Representative M. Oshiro then rose and stated:

"Mr. Speaker, the same for me, yes with reservations, and I would also like to adopt the comments of the Representative from Kau," and the Chair "so ordered." (By reference only.)

Representative Jones then rose and stated:

"Mr. Speaker, I rise to speak in support of this measure but with reservations. I believe that this bill will save lives and for that reason I support it. But the concerns raised by many of our colleagues here are legitimate, especially those families with one truck. They're going to have a real problem. Anyway, I support this bill but with reservations.

"Thank you, Mr. Speaker."

Representative Cachola then rose in support of the bill, stating:

"If it's really true that passage of this bill saves lives, that will be translated into a lot of savings to the insurance company by not paying out claims. If that's really true, as we move through the process, we should look at ways to reduce premiums to taxpayers or drivers, so that if there's really a lot of savings for the insurance company, then we should give some relief to drivers.

"Thank you, Mr. Speaker."

Representative Whalen then rose and stated:

"Thank you, Mr. Speaker, for allowing me to speak one last time on this.

"You know, again I keep going back to the emotional issue point. Many of the people who spoke for this said we have to protect our children, but we need to remind you that this bill does not protect children. It bans anyone from the back of trucks, except for some reason government. They can just cruise around all they want, but we exempted ourselves from this restriction. But everyone else who can afford only one vehicle is restricted.

"Secondly, and I brought this out in the Committee hearing which Representative Herkes referred to briefly. We had no information regarding, if the current law has done anything. When asked a question of all these statistics that came out of the University of Hawaii -- how has the current law affected families, what's the problem with the current law -- he said he didn't know. Because the current law says that if there are seats in the front of the truck, you cannot ride in the back. When asked the question: Well, how many of these accidents were people who died from flying out from the back of the trucks? Were there open seats in front? He shook his head and said: 'I have no idea; I didn't think that was relevant in my studies.' We're assuming that by passing this law, we will magically stop all passengers from the back of the truck.

"What they will do is, the constituents from Representative Herkes and my districts -- Representative Tarnas will now be fined, I believe it's a \$100, for living in this State -- and those who drive around with people in the back, will continue to do so, will continue to die

because it's a choice. Just like you have friends and I have friends who drive around without a seat belt on their lap until they see a police officer. And just as now you see people riding around in the back of a truck with open seats in the front. It's illegal, but they'll do it anyway."

Representative Herkes then rose and stated:

"I'm glad that the recent accident of the pick-up truck that had some youngsters in the back that were thrown, I'm glad that was brought up, because every indication was that that driver was acting very recklessly, crossing three lanes of traffic at a high speed.

"And the other factor on that accident that I remember from the coverage was that truck flipped over, the driver was pinned inside, and it took the jaws of life to get that driver out. If there had been a fire, that driver was at far more risk than the youngsters that were in the back of the truck. So we haven't considered that.

"The other thing that we haven't considered in this debate and hasn't been brought up, was just a few weeks before that, there were two tragic accidents where lives were taken. Nothing's being said about how we're going to address that, and those were in closed vehicles and one of them was a youngster."

Representative Takamine rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Takamine's remarks are as follows:

"Mr. Speaker, I rise to speak in support of H.B. 88, HD 2, but with serious reservations. H.B. 88, HD 2, is about safety and saving lives. Therefore, I feel compelled to vote for this measure. If even one life is saved as a result of this legislation, then its purpose would have been served.

"However, Mr. Speaker, I represent a rural area, where many times, the only vehicle a family owns is a pick-up truck. This means that, on occasion, it is the only means of transportation for all members of the family. For these families, this bill creates an unfair and real hardship, given the restrictions imposed by this measure. However, I am supporting this bill at this time with the hope that as it gets reviewed and scrutinized further, additional amendments can be made to alleviate and address this serious concern, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 88, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PICKUP TRUCKS," passed Third Reading by a vote of 40 ayes to 11 noes, with Representatives Chang, Goodenow, Hamakawa, Herkes, Kahikina, McDermott, Meyer, Morihara, Nakasone, Tarnas and Whalen voting no.

The Chair directed the Clerk to note that H.B. No. 88 had passed Third Reading at 5:07 o'clock p.m.

Stand. Com. Rep. No. 1015 and H.B. No. 131, HD 2:

Stand. Com. Rep. No. 1028 and H.B. No. 132, HD 2:

Representative Okamura moved that Stand. Com. Rep. Nos. 1015 and 1028 be adopted and H.B. No. 131, HD 2, and H.B. No. 132, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Ward rose and stated:

"Mr. Speaker, I rise in opposition to House Bill 131, calling for an appointed Board of Education.

"We appear to have a very short memory in this House, Mr. Speaker. It was only a few short years ago, in 1994, when we brought this same issue before the people of Hawaii and they rejected the proposal.

"If we waste more money and more time on this issue, hopefully the memories of the voters will also be a short one when election time comes around, because I think this is the third time we visited this. The point is, the people of Hawaii have spoken and they've wanted not only an elected, but they've wanted an accountable Board of Education.

"Mr. Speaker, what we haven't listened to, however, with the people of Hawaii, is that they also want us to have a decentralized school board with decentralization of the school. The point is, they want more control and we haven't gotten that and what we're proposing is this.

"Study after study has indicated that the closer parents and the community get involved in the school, the closer we become excellent schools or centers of excellence.

"Mr. Speaker, so what we're about to do is an utter waste of money, and this bill symbolizes what is actually wrong with education in the State of Hawaii. We keep repeating things that don't work and we keep doing them enough times to think that, eventually, maybe it will work.

"Mr. Speaker, notwithstanding any further comments that will be made, I will be requesting a roll call vote on this particular measure."

Representative Stegmaier then rose and stated:

"Mr. Speaker, I rise to speak in support of these two measures.

"Among the reasons that I believe the Legislature should consider in supporting these bills are the following three that have to do with the elected process.

"One, the people don't know who they are voting for. Two, there is little or no accountability to a group of constituents. In other words, there is no representation. And third, there is little or no accountability to the people as a whole, and confusion reigns supreme.

"It is not surprising that confusion reigns supreme. The way that the districting has been set up, I'm sure that many of us in this very chamber don't agree with the way that we've been electing our Board of Education for the last 30 years.

"The Constitution, Article X, says: 'There shall be a Board of Education composed of members from two-at-large school board districts. The first school board district shall be comprised of the Island of Oahu and all other islands not specifically enumerated. The second school board district shall be comprised of the Islands of Hawaii, Maui, Lanai, Molokai, Kahoolawe, Kauai and Niihau. And each at-large school districts shall be divided into departmental districts and the requirement is, that a member of the board reside in one of those departmental school districts.'

"But there's nothing that holds the members accountable to any constituency. The matter of electing school board members is convoluted and nonsensical. And all efforts that have been made to reapportion or restructure an elected school board have been met with constitutional and/or political and/or legal opposition.

"To bring this situation home to the members here, how many of you know who your representative on the Board of Education is? I know that Representative Pendleton knows who his representative is, but I'm not sure about the other members. And if you think you know, are you sure that the person that you think is your representative is not the representative of some other area or in fact some other island?

"It is hoped that with an appointed board, we will have greater simplicity and clarity in our policymaking and in our appropriating. And instead of having a lot of moving targets that are supposed to be accountable for our education system, when the people want to praise or criticize the performance of state policymakers, they will have only to contact their legislators and the Governor, or to vote in favor of or against those known public figures at the next election.

"Mr. Speaker, the opponents, the prior speaker and others who will follow are saying we are taking away the power of the people. You'd be ending an expression of democracy. And as the former speaker mentioned, the people have already spoken in 1994, only recently, in support of the elected board.

"Well, Mr. Speaker, indications are that the people don't want this expression anymore. In 1994, 46% voted against an appointed board and yet 43% of those participating voted in favor and the remainder, over 10%, left the issue blank. If you add those wanting change with half of those who didn't participate, a majority in 1994 would have been in favor of a change to an appointed board, conceivably to an appointed board.

"Those in opposition to these bills will also say that there are good people being elected. This bill is not an attack on any persons. In fact, I would hope that some of the members who had been elected would also be the ones, some of the ones, appointed to continue serving.

At this time, Representative M. Oshiro yielded his time to Representative Stegmaier.

Representative Stegmaier thanked the Chair and continued his remarks, saying:

"The third objection is that these appointees will be patsies to the Governor. Well, I only need to remind those members about gubernatorial appointments to the Judiciary, the Legislature, and to the Board of Regents to know, while appointments may be made, independence is shown.

"In conclusion, Mr. Speaker, let us remember that our main purpose is to work on devolving power down to the school level and not to get caught up in preserving domains of power at the state level. We should be attempting to put together the best system we can and power fixes as usual should no longer be tolerated in the Department of Education or with regard to the education system in the State of Hawaii.

"We've had an elected board in existence since 1964, a board which has presided over the deterioration of our public school system for the past 30 years. Let us try a different approach. I ask for the support of the members.

"Thank you."

Representative Moses then rose to speak against both bills, stating:

"The Governor already has the ability to put hundreds of political appointees in his cabinet, on committees, blue

ribbon task forces, and sometimes even in the Legislature. Is our economic development any better because he appoints a cabinet member to head the effort? Is our small business climate any better because he appointed a blue ribbon task force? Is our tax system any less burdensome because the Governor appointed the Tax Commission? I think not.

"The conception that more accountability comes from giving more power to one person at the top is obviously an error, if one only looks at history. Dictators may be responsible for what they do, but that doesn't mean that they're accountable to the people.

"Some of the testimony we heard in committee talked about public education as so important and pervasive to the future of our society that it should be shielded as much as possible from the influence of special interest, ideologies and patronage of any political party in power.

"The people ratified in 1964 an amendment to change the Board of Education from one that was appointed by the Governor to our present system that is a directly elected body, accountable to the people. Since 1964, the people have consistently rejected constitutional amendment proposals that would have undone the non-partisan elected Board of Education.

"As we heard, as recently as 1994, the people rejected another proposal to change the Board of Education to an appointed board. We heard from my distinguish colleague that 10% of the people left that question blank. Possibly because they're sick of answering the question. They've spoken, and spoken, and spoken. The people's will is obviously being ignored by this bill. Please vote no on both measures.

"Thank you."

Representative Okamura then rose to speak in favor of both measures, stating:

"The time has come for an appointed Board of Education. Many, if not most, of our constituents are dissatisfied with the governance of our educational system and are looking for changes and improvements in accountability.

"The support for an appointed board, Mr. Speaker, includes not only families with children, but from our labor, as well as our business communities. For example, last year the Hawaii Congress of Small Business, in recognizing that employee candidates are ill-equipped to meet workplace requirements, recommended that the finding of the Task Force on Governance be adopted, wherein the Governor appoints the members of the Board of Education and the Superintendent to achieve straightline accountability.

"This year, testifying in support of an appointed board were the Chamber of Commerce of Hawaii, the Hawaii Business Roundtable, the HGEA and the UPW. Acknowledging that the Board of Education plays a critical role in policymaking decisions affecting all schools, students and future employees in our workforce, both the Chamber and the Roundtable agreed that an appointed board would remove ambiguity, clarify responsibility, and provide a clear and direct line of accountability.

"The desire for greater accountability has also motivated the electorate. As Representative Stegmaier indicated, in 1994, despite no real strong organized effort, the proposal for an appointed board almost passed. The creation of the Board of Education took place in 1964. That's 37 years ago.

"The only opportunities that the general public or the electorate had to vote on possibly changing the system back to an appointed board took place in 1970 when an amendment to abolish the elected board was soundly defeated by the electorate. It's been 27 years since, when in 1994 the proposal for an appointed board was then put forth again and it almost passed. Plainly, there was no clear majority in this past election.

"To approve these measures today, Mr. Speaker, will move us toward a clear mandate by simply allowing the electorate one more opportunity to express their opinion and cast their vote on this important issue. Why should we deny them this opportunity?

"An appointed board would offer the following benefits: create more accountability by providing the Governor with direct input regarding who the Superintendent, as a member of his cabinet, should be; it would create a more unified relationship between education policy and implementation; it would provide for a single educational spokesperson rather than having a group of micro-managers; and it would provide for more qualified and committed board members who will not be politically motivated or selected simply in a popular contest, individuals who have no interest in running for office but rather have great interest in improving the education of our young citizens.

"Mr. Speaker, the time is right for an appointed board. I urge my fellow colleagues to vote yes on these two bills and allow the public the opportunity to demand a clear line of accountability and place responsibility for the performance of our public schools with the Governor.

"Thank you."

Representative Whalen then rose to speak against both measures, stating:

"I hope I'm not sounding redundant for the rest of the House, but one of the things I always try to look at is, what is the reasoning -- what is the argument behind each position?

"Here, the argument for abolishing this elected board is, on one hand, we will have greater independence because, for whatever reason, the second speaker said -- no, it's not greater independence -- what we're going to have is someone who is accountable to the Governor. The Governor will be able to appoint the person, the Governor will be held responsible, the Governor will have direct control over what's going on. So those two positions seem irreconcilable already.

"Secondly, and this I think is really key. Look at our government today. I think that everyone acknowledges that our Governor is extremely strong in terms of his appointments, his policymaking decisions, his line item veto. The Governor in this state has so much power and yet look at the circumstances we're facing today.

"The Governor is accountable and responsible for much of what we're involved with right now, either solving it or creating it, or whatever. Yet we're saying, let's turn over education because we need changes. Give that to him, too, or to that office. What people are saying is that they're tired of the mess we're in, they want a change. But I do not believe people are saying they want to add one more weapon to the Governor's arsenal in terms of control over the populace of this state.

"We need to get the power, as was indicated earlier, away from that office. We're talking about devolving the power down to the local communities. That's what

people want. They want control over the education of their children, not have it somehow snowball back to the mountain, to the top where the Governor is, because even more so they'll lose control. And if I can be honest, and sometimes I get in trouble being so honest, look at what happened in this House and the Governor's office and how the attempts at control go throughout this government. . .

At this point, Representative M. Oshiro rose on a point of order and asked Representative Whalen "to stick to the merits of the bill," and the Chair concurred.

Representative Whalen continued, saying:

"Yes, Mr. Speaker, I see this bill as another attempt at our government, to let our Governor reach out and grab more power, more control over every aspect of our lives. And I use that prior illustration as an example. And I would ask you all to look around you before you vote yes, not just because this is kind of a Majority position and we're the Minority and we're saying no and more power to the people, think about where we're heading on this, because the people do not understand the issue entirely, but one thing they're square on and that is they want a change.

"Are we going to fight for true change, or are we going to simply say: Here Governor, here's one more star for your hat for you to control, and it's out of our control, it's out of the people's control.

"Thank you very much."

Representative Ward then rose and stated:

"Mr. Speaker, I offer three counterpoints: one for my counterpart and one for my colleague from Hawaii Kai regarding this particular issue.

"First, in regards to nobody knows their names. Lest we flatter ourselves, ladies and gentlemen, polls tell us that in any given time, in any given race, if people in Hawaii are asked who's your representative and who's your senator, 80% don't know your name. All of us, they don't know who we are.

"Number two, they don't even know if we work for the City and County or the State government. So in terms of they don't know who their Board of Education or they don't know who is accountable in regards to name and address, hey, we're all in this humble pie thing together.

"In terms of accountability, study after study, opinion after opinion, townhall after townhall says, we want to have control. Decentralization is the issue. Something that we brought caucus after caucus forward to say, let's bring these boards down to county levels or even districts.

"Mr. Speaker, what we've got before us is, when a mechanic goes in and says, hey, there's something wrong with your engine and you go and prescribe, let's change the tires, and that's what this bill does. We've got engine problems, we need to take the structure of it, and we say, let's change the tires. And that's exactly what this bill does.

"And lastly, the model that we're asked to follow, let the Governor take it. The Board of Directors or the appointed Board of the University of Hawaii is the model that we want to emulate. Is that what this thing, if we do pass it, is what we want to have as our model for excellence in education by the BOE? I think all three of these leave much to be desired, Mr. Speaker."

Representative Case then rose and stated:

"I rise in support of these bills, Mr. Speaker.

"Mr. Speaker, this is Management 101. Let me respond in a way that the Minority Leader may understand. Let me take an example of an organization that has survived roughly a thousand years now; it's called a corporation. We have here in the DOE a billion dollar a year enterprise, and it's being badly managed. The DOE as a corporation, would not have survived. The reason it would not have survived is there's really no line authority, no line accountability.

"In a corporation you have a president who's an officer, and a vice-president and the officers appointed by the president, and they are all responsible for the day-to-day management of that corporation. The board of directors is responsible for advising and directing the president on general matters.

"And the beauty of this system is that you have direct day-to-day accountability in the officers, right up the chain of command, quick decision-making authority and responsibility, assisted by a separate board that stands to the side and gives general policy advice.

"That is not what is happening in the Board of Education. The Board is, in fact, acting as the equivalent of the president, and that is where the problem comes in. The Board thinks it should run the day-to-day operations, and the Superintendent does not really have the ability or responsibility to operate the ship as she or he should. And that is why this Board and this Department of Education is in trouble.

"Thank you."

Representative Yonamine then rose and stated:

"Mr. Speaker, I would like to support these bills -- yes with reservations -- only because we're leaving the voting up to the people once more, so that's why I'm in support of these bills.

"What are we going to be doing by eliminating an elected board? Are we going to make the Governor be ultimately responsible for public education? The realities are simple, it won't change the situation at all. We're talking about three levels of decision making in the governance of public schools if we have an appointed board and we make the Governor accountable for public education. Here, we'll first hire a Superintendent, appoint 21 of the top administrators and bring together all the resources of the executive branch, as you who would know, they are DAGS, Budget and Finance, et cetera, to effectuate reforms in public education.

"Now we can have a Governor, any Governor, that can be enlightened or who can be a demagogue, and that's a problem with the situation by making the Governor ultimately responsible for public education, because he or she can be politically motivated to institute reforms in public schools. And we've seen too many examples in the United States where an enlightened one would be very helpful, very positive, but on the other hand we have demagogues who disrupt the educational process, and there's too many examples in the 16,000 school districts we have throughout the United States.

"Now, at the same time we have the Legislature, so by the Constitution we can approve the appropriation and we do the monitoring and have oversight of the budget. That's very clear in the Constitution, but the Constitution also calls for two words, 'under law,' and by these two words what it does is, it enables the Legislature 76 district superintendents to represent the respective constituents

and their special interest and to help and push for school rules, school policies and procedures, representing their parochial interests in the school districts and their own special interests.

"So what it does 'under law' and 'under the Constitution' is, it gives us the authority to do whatever we want with our public schools, and that is the reality folks. So you have the second level of decision making.

"The third is our SCBM and our charter schools. If you're going to make the Governor accountable for public schools, what is going to happen to the SCBM and your charter schools? Didn't we empower them to do certain kinds of decision making on a local school?

"What's going to happen now? Once Governor, no school board elected, 200, it's 244 now -- it's 244 SCBMs -- and up to 25 charter schools, charter schools which would take on more of the responsibilities of the Central Board of Education now. These are all in the statutes. Let's ask ourselves: What are we trying to do? Are we really going to fix the blame on the Governor, or are we going to fix the successes on the Governor, or what are we going to be doing? Taking our hands-off policy in terms of non-fiscal school rules and policies?

"Now these are the questions that you all need to answer. You can change the laws right now and empower the SCBMs and your charter schools if this is what you want. If you want to empower the local schools, enlarge the representation, change the composition, put some tenure, put some real election on a grass roots level, you would have local school community decision making. Such is not the case right now.

"Therefore, now the last one here is this, the problem with the elected school board is the reapportionment, the court decision that was made in 1978 under Judge Pence, under the one man/one rule reapportionment plan. That's why you have confusion. All your neighbor islands vote for each other, all of us on Oahu vote for each other, so you don't know who you're voting for. And even if you vote for somebody..."

At this point, Representative M. Oshiro rose and yielded his time to Representative Yonamine.

Representative Thielen then rose and stated:

"Mr. Speaker, I believe that he already yielded his time. I believe someone else will have to stand and yield their time."

At this point, Representative Say rose and yielded his time to Representative Yonamine.

Representative Yonamine thanked the Chair and continued, saying:

"With all this interruption, I forgot what I was going to say.

"In conclusion, I think what we are trying to do here is simply this: Ask the people one more time, waste some more money by putting it on the ballot -- it costs money now to get your ballots printed, that's for sure -- and all the time that we put in our Committee hearings, involving people to testify -- we're wasting their time too. But that's okay, give the people another chance to decide on it. But let me tell you this: The situation right now will not change, the situation in the future will not change simply by having an appointed board.

"What we need to do is look at the governance of the school board one more time, and the governance of the

public schools one more time, and make it clear that under law -- this is where I think the problem is (under law) -- that's in the Constitution, this is what makes all of us try to establish school rules and policies that could be done by the elected Board of Education.

"Now under the one man/one rule situation, we need to challenge that rule. I don't think that's fair, we don't have a franchise. We're not voting for our own elected officials. This is the obvious truth, and you all had a chance to clean up that election -- primary and general -- and you haven't done it either. So let's put it simply -- we don't take our hands off the internal affairs of the public schools although we can do it with fiscal policies and the authority that's given us by the Constitution. We should do a hands off, or at least a guarded backing off, of non-fiscal school rules and policies. And I think that's where the problem is.

"So in conclusion, let's put it this way, let's go ahead and let the people vote one more time but I'm going to tell you this, it's not going to fix up the situation at all.

"Thank you."

Representative Pendleton then rose in opposition to these two measures, stating:

"I'd like to disclose a potential conflict. My spouse is an elected member of the Board of Education, and the Chair ruled "no conflict."

Representative Pendleton continued, stating:

"Mr. Speaker, I think we've heard arguments on both sides. A couple of the arguments I'd like to specifically respond to. One is that in Management 101 you learn that there is a basic way that a corporation is organized, and I think that the Representative from Manoa is absolutely correct as to how a corporation is organized.

"However, we are not talking about a corporation in this case; we are talking about an educational system. And if you talk to most educators, they will agree that those are two disanalogous situations. A command structure works very good where the bottom line is profit and where input is minimized and limited to a number of experts in that particular field. When it comes to education, we're trying to meet all of the needs of a very diverse not a homogenous, but a very diverse community -- people living in different areas, different ethnic backgrounds, different cultural values.

"The purpose of the elected board, at least as I read it in the Constitution and in our statutes, the purpose was to intentionally defuse, or disperse, or decentralize the decision making process, in order to maximize the opportunities for public input.

"True, we can elect a Governor and have the Governor set educational policy, but I've never heard in the history of this country of a Governor being ousted because of his educational policy. He or she may be ousted for fiscal, economic policy, policy with respect to crime, etc., but I've never heard of a Governor who promoted or fought against SCBM, or promoted charter schools or opposed charter schools and who was ousted for that reason.

"So the accountability reason, to me, is suspect. I would be surprised if the public would be able to pick up the technical, complex educational policy of a Governor and say: okay, I'm going to vote him or her out of office because of that. So it really doesn't lend towards accountability.

"Now independence. People have said that this will not limit the independence of public officials simply because they are appointed by the Governor. For example, we have judges who can act independently. But this measure certainly doesn't maximize their independence, and I think that's what we want. We want an additional opportunity for public input.

"I think the strongest point that Representative Stegmaier made was the fact that the election system is convoluted and nonsensical with respect to districting, and I fully and wholeheartedly concur. I would be in favor of reorganizing the districts and making it easy for people to know who exactly their representative is. But this bill goes too far in calling for an appointed board. That's why I oppose these measures.

"Thank you."

Representative Ward requested a roll call vote on both measures.

The request for a roll call was put to vote by the Chair and upon a show of hands, the request was granted.

Roll call having been requested, the motion to adopt Stand. Com. Rep. Nos. 1015 and 1028 and to pass H.B. No. 131, HD 2, and H.B. No. 132, HD 2, on Third Reading was put to vote by the Chair and carried, and the reports of the Committee were adopted and H.B. No. 131, HD 2, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE X, SECTION 2, OF THE HAWAII CONSTITUTION, TO CHANGE THE BOARD OF EDUCATION FROM AN ELECTED BOARD TO AN APPOINTED BOARD," and H.B. No. 132, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading on the following showing of Ayes, Noes and Excused:

Ayes, 36: Representatives Abinsay, Ahu Isa, Arakaki, Cachola, Case, Chang, Garcia, Goodenow, Hamakawa, Herkes, Hiraki, Ito, Jones, Kahikina, Kanohe, Kawakami, Morihara (kanalua), Morita, Nakasone, Okamura, M. Oshiro, P. Oshiro, Saiki, Santiago, Say, Stegmaier, Suzuki, Takai, Takamine, Tarnas, Tom, White, Yamane, Yonamine, Yoshinaga and Souki.

Noes, 14: Representatives Aiona, Fox, Halford, Kawanakoa, Lee, Marumoto, McDermott, Menor, Meyer, Moses, Pendleton, Thielen, Ward and Whalen.

Excused, 1: Representative Takumi

The Chair directed the Clerk to note that H.B. Nos. 131 and 132 had passed Third Reading at 5:41 o'clock p.m.

Stand. Com. Rep. No. 1033 and H.B. No. 119, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 119, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Ward offered the following amendment to H.B. No. 119, HD 2:

"SECTION 1. House Bill No. 119, H.D.2 is amended by amending lines 10 to 11 on page 4 to read:

'for more than [one candidate. The candidate] two candidates. The candidates receiving the highest number of votes in the'

SECTION 2. House Bill No. 119, H.D.2 is amended by amending lines 16 to 18 on page 4 to read:

'The convention shall consist of [fifty-one] one hundred two delegates. [One delegate] Two delegates shall be elected from each representative district of the State.'

Representative Ward moved that the amendment be adopted, seconded by Representative Kawanakoa.

Representative Ward rose and stated:

"Mr. Speaker, I rise to speak in support of the amendment for three reasons. Mr. Speaker, you are the first reason. What can I say after having said that? In the 1978 convention when you started your career -- you, John Penebacker, John Waihee, Tom Okamura, David Stegmaier and other notables that are in this body or have been in this body, Barbara Marumoto and others, but particularly you, Mr. Speaker, and a few others who came in second. My point is, if there were only 51 delegates because you came in second, your career would have never blossomed, or who knows what would have happened. We just don't know.

"The point is, if you take half of those people from Maui away, you would have been swept away. So the first reason, Mr. Speaker, is you, and that coming in second does make a difference if we have 102 delegates.

"The second reason to amend this bill from 51 to 102 is that delegates fear that those now in the community will either have to have deep pockets or instant name ID or name recognition in order to get here, and they fear that even some of us, Mr. Speaker, because some issues are felt so strongly that we would be tempted to run, thereby really pushing back what is otherwise a grass roots effort, which by the Constitution we are commanded to do and charged to do every 10 years.

"And the last reason, Mr. Speaker, and I think this goes back to Thomas Jefferson when he said: 'The broader base of the grass roots effort of democracy, the less likely the tyranny is to set in.' And I believe if we have 102 delegates, the less likely there's going to be any control from any group, union, vested interest, one issue interest, etal. So we can actually get a very good Constitutional Convention.

"Therefore, for those reasons, Mr. Speaker, and I know that someone is going to stand up and say, well it costs more money. Well, we've got other reasons we can save money but I don't think we should do a Con-Con on the cheap or get a discounted version of it. We should do what is right, we should do what the people of Hawaii, by the Constitution, are supposed to do.

"Mr. Speaker, for these reasons I support the amendment, and notwithstanding any further remarks on the proposal, we will be calling for a roll call vote at the end of this discussion."

Representative Thielen then rose and stated:

"Mr. Speaker, I strongly support the amendment. Con-Con should not be done on a 'Costco' basis. If it costs a little bit more to have 102 delegates, that's money worth being well spent. Mr. Speaker, the voters are allowed to send 76 members to the State Capitol -- 25 in the Senate and 51 here. What this Con-Con amendment says is we should at least have parity with that number and, in fact, we should increase it to be 102 delegates.

"If we go with just the 51 delegates, we're really rationing down on the way in which the electorate can send people to represent them in a Constitutional Convention. I think that's a backward step, it's done on the cheap, and it's a step backward from a true

democratic process where people are going to be able to have enough members there to express the very diverse opinions in our communities today.

"I'm really afraid of a Constitutional Convention that would just have 51 delegates because it would be ripe to be taken over by a special interest group that is well funded and could go out and back the candidates that would have that single issue agenda. The only way to protect against that is to make sure that we have enough delegates there that we're going to have a broader representation in the communities.

"And regardless of your opinions or your bias or lack of bias on specific issues, I think that everyone sitting here in this body would recognize that it's in the best interest of democracy if we have a broader representation. I don't think that we would want to see our numbers narrow down to just 25 and the Senate down to 12-1/2. It doesn't serve democracy. So I'd ask that you really take a look at that.

"I know the amendments are proposed by Republicans, and you have to get over that bias right there. To be able to say, wait a minute, could we actually vote for something Republicans want to have passed? Well, I ask you to kind of look beyond that bias and look at what is in the best interest of democracy in this State. Is it to have a group that could be subject to control, subject to special interest lobbyists, subject to highly supported campaigns, or is it in better interest to have 102 delegates, where we have a much better chance to have a broad representation of our communities? So give it a shot, give it a chance. I know it's a Republican amendment, but just sort of bite the bullet, so to speak, Chairman Tom, and try voting for it. Because it really is a democratic proposal sponsored by Republicans who are supporting democracy.

"Thank you."

Representative Tom then rose and stated:

"First of all, Mr. Speaker, I am confident in saying that I'm sure if we had 51 members in the '78 election, you would still see people like Souki, Okamura and Waihee and other people getting in.

"Secondly, Mr. Speaker, when we talk about numbers, why talk about 102 -- why not more? What about 130? What about 150? What about 200? What is the magic number? Merely the fact that there were 102 members in the '78 election does not make that number right or wrong. In the House we have 51 members. It works fine. We get a lot of good things passed. We get criticized, but it's not unwieldy, we do a good job. And even when we convene every year, sometimes even 51 members seems quite a lot to manage.

"How do you think it would happen with 51 members in something very new that's done once every 10 years or in this case, 20 years? What about cost? Everyone seems to say, what about cost? Let's not think about cost. Well, let me tell you, it's going to take, with 51 members, over several million dollars to do the convention correctly. When you add another 51 members, you're talking about 51 more candidates or delegates to pay. You're talking at least a minimum of 51 secretaries and clerks and typists. You're talking about a lot more preparation not for the balance, but to run the convention. You're not talking just a couple of dollars.

"Let's talk about what comes out of the convention. I submit to those who say that we need more than 51 when really there is no magic number. I take another view. I happen to have a lot of faith in people, and whether we

have 51 members or we have 102 members or we have 163 members, the amendments will come out fine because I know in my heart that people will do what is right.

"And merely because you have more people doesn't necessarily mean that, well, we're going to have more from this group or more from that group if we have only 51, so we don't want all those radicals taking over. Come on, let's be fair about it. I happen to believe that whether you have 51 or 102, you're going to have very good, strong results because I happen to believe in people and what people can do. I would ask you members, not because it's a Republican or Democratic bill or amendment, and I really wish that people wouldn't bring those things up but logical reasons, let's have faith in people, and I ask you to vote against this amendment.

"Thank you."

Representative Kawanakoa then rose in support of the amendment and stated:

"We're looking for a clear rationale as to what number we pick and it only seems to make sense to me that we have 102 like at our prior convention. At that time, we had a smaller population, and they probably had more access to the 102 representatives. I think at any rate we should remain or hold the line at 102 and not pick an arbitrary number such as 51 and reduce those numbers.

"Under the prior speaker's analysis, I guess we could have 10 representatives. Maybe we should elect one representative to the Constitutional Convention. I would suggest that a reasonable number is to maintain what we had at our prior Constitutional Convention. It seemed to work then, it should work again."

Representative Moses then rose and stated:

"Mr. Speaker, a previous speaker asked for some logic and I'd like to provide some. Maybe you can provide some to me because I'm confused now. On the previous bill that we just decided on this floor -- two bills concerning the BOE -- we were told it doesn't matter that it's going to cost to do it again. We might get the people to change their mind. They've already decided it a couple of times, and every time we said: Well, that's just a waste of money and we were told cost is not the factor.

"Now all of a sudden, when we want the people to be involved and decide issues, we're told cost is the overriding factor. I'm really confused. In 1978 -- we've heard this several times already -- twenty years ago, we had 102 delegates. Why are we going backwards? We have more people in the State; we have more pressing problems. Why are we taking more power away from the people?

"If we think that we could decide everything with just a small number of people, why do we have 51; why not just have 1 here? Better yet, Mr. Speaker, I strongly urge us to adjourn and you just present the gavel to the Governor.

"Thank you, Mr. Speaker."

Representative Pendleton then rose to speak in favor of the amendment and stated:

"Mr. Speaker, we've heard some remarks to the effect that a logical reason hasn't been put forth for having the 102 number. I think the Representative from Punchbowl/Pauoa has stated that we haven't received logical reasons or compelling arguments for decreasing the number from the precedent of 102.

"I would like to add, however, in case some people are thinking about the first Constitution. There were actually very few people, I believe fewer than 50 at the Philadelphia Convention; however, that situation is not like the one we have here in Hawaii.

"If you recall, the people those individuals were elected to represent, they were elected by males, landed aristocrats from the same cultural background, ethnic and racial background, and perhaps you can have a limited number of representatives to represent a fairly homogenous people.

"But we have a very diverse people here in Hawaii, many different cultures, many different perspectives, and I think that we want to maximize the quality of the body and ensure that the Con-Con is reflective of the diversity in this state. And I think the burden of proof rests on those trying to ratchet down the number, from 102 to 51, and so that's why I support the amendment."

Representative Ward then rose and stated:

"Mr. Speaker, one extra piece of logic and then I will call for the roll call vote. This hasn't been mentioned yet, but I think we have to be frank with what's presently going on on the legal side of this particular argument. There is a lawsuit that is very aggressively attempting to stop this. If those aggressive forces that don't want to have this happen, for sure if it does happen and they lose the case, Mr. Speaker, when there comes to be the election of those 51 delegates, will not those forces do all they can to capture all 51 of those delegates?"

"And that is exactly what the Chair of the Judiciary Committee fails to realize in a very sober, objective way. There are forces that want to stop this train. There are wrenches being thrown every day at this Constitutional Convention. And if we keep it at 51 and those forces keep on moving in the direction that they are moving, they're going to take it over. And if you really want something to come out that's objective and of the people, by and for, that's not the way to go. So this is simply a logical deduction. We need 102 to be safe and to be secure."

At this time, Representative Ward requested a roll call vote.

The request for a roll call was put to vote by the Chair and upon a show of hands, the request was granted.

Roll call having been requested, the motion to adopt the amendment was put to vote by the Chair and failed to carry on the following showing of Noes, Ayes and Excused.

Noes, 34: Representatives Abinsay, Ahu Isa, Arakaki, Cachola, Chang, Garcia, Goodenow, Hamakawa, Herkes, Hiraki, Ito, Jones, Kanoho, Kawakami, Lee, Menor, Morihara, Morita, Nakasone, Okamura, M. Oshiro, P. Oshiro, Santiago, Say, Stegmaier, Suzuki, Takai, Takamine, Takumi, Tom, White, Yonamine, Yoshinaga and Souki.

Ayes, 16: Representatives Aiona, Case, Fox, Halford, Kahikina, Kawanakoa, Marumoto, McDermott, Meyer, Moses, Pendleton, Saiki, Tarnas, Thielen, Ward and Whalen.

Excused, 1: Representative Yamane.

At 6:03 o'clock p.m., Representative Say asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 6:06 o'clock p.m.

Representative Fox then offered the following amendment to H.B. No. 119, H.D. 2:

"SECTION 1. House Bill No. 119, H.D. 2 is amended by amending lines 8 to 10 on page 3 to read:

'election. The chief election officer may make provisions to allow registered voters to cast [absentee] ballots [.] for the election of delegates by mail.'"

Representative Fox moved that the amendment be adopted, seconded by Representative Ward.

Representative Fox rose to speak in support of the amendment, stating:

"Our patience is growing thin, I'll speak very briefly. This is an amendment to allow for the Constitutional Convention to be chosen by mail ballot for two reasons. First, cost. We can save \$700,000. Second, participation in an election where people are to go to the polls to select only one delegate to a Constitutional Convention, the turnout is going to be very low. Putting the ballot in the mail box, in the hands of the people who participate, will increase participation.

"Precedent, the sovereignty issue, Neighborhood Board elections. Oregon became the first state to handle a special election to the U.S. Congress by mail ballot. Turnout in Oregon went up as a result of mailing the ballot out rather than having people turn up solely for the purpose of voting for one person in a special election. I don't think there's any downside, it's all up.

"I'm not calling for a roll call vote. Thank you for your attention."

At 6:08 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 6:08 o'clock p.m., the motion to adopt the amendment was put to vote by the Chair and failed to carry by voice vote. (Representative Arakaki was excused.)

Representative Thielen then offered the following amendment to H.B. No. 119, H.D.2:

"SECTION 1. House Bill No. 119, H.D.2, is amended by amending line 5 on page 6 to read:

'at the general election of November 1998. When the amendments are put on the ballot for the electorate, each amendment shall be voted on separately and there shall be no reference to voting for all the amendments as a group.'"

Representative Thielen moved that the amendment be adopted, seconded by Representative Kawanakoa.

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

"Mr. Speaker, there will be a number of amendments that will come out of the Constitutional Convention. When a voter is asked to approve all of the above or none of the above, I think it gives the voter an unfair choice and unwise choice. So the amendment that I am proposing is we allow the voters to vote on each particular proposed amendment to the Constitution.

"I think this just makes sense, Mr. Speaker. I know that you basically feel that is sensible also. It may be a

question of whether the delegates themselves can do it or whether it should happen in the bill itself. I once again would ask the members to look at this as a sensible amendment. One that can stand on its own merits and overlook the fact that it's proposed by a Republican and go along with it."

Representative Ward then rose and stated:

"The amendment, Mr. Speaker, is good public policy. We know we get so many charter amendments from the City and County and people essentially don't understand what they are. And if we're going to spend all the time and the effort to do a Constitutional Convention, regardless of how many people we have as delegates, to have one box that says 'approve all of the above,' I think is an insult to the intelligence of all of our constituents.

"I think it's a taking of all the work of the Constitutional Convention and saying: well, here's one box; one size fits all. I don't think it's good public policy to not be able to write the things, number one, so they can understand it; and number two, to give them a choice to really say: we want to change the State of Hawaii. Let's let it be discernable -- one by one, just like we go page by page, vote by vote.

"Mr. Speaker, I want to apologize if we've upset some people by breaking these out rather than combining them, but we felt that each one had its own merits by saying, delegates one issue; saving money another issue; and sound public policy as this third issue, Mr. Speaker.

"Thank you for your indulgence."

Representative Yonamine then rose and stated:

"Mr. Speaker, I speak against the motion because, well let's make sense. In 1978, we had over 830 something specific amendments to the Constitution. It boiled down to approximately 140 amendments. It finally got boiled down into 34 sections of your Constitution. So the question here is: If we're talking about making sense, do I sit there and look at 800, 500 or 400 amendments in that ballot, or do I vote on it all at one time?

"The answer to it all is this: After the convention, what we need to do is to put on an elaborate, exhaustive and thorough public education program. That's where it all lies, so people know what they are voting for. That's the key to it all.

"Thank you."

Representative Cachola then rose and stated:

"Mr. Speaker, I'm speaking in opposition to the motion. I don't know why we're coming up with all these kinds of motions. It's only 26 days; there's a lot more days in the process. . ."

At this point, the Chair interrupted and asked Representative Cachola to "please speak on the motion."

Representative Cachola continued, stating:

"I'm speaking against it, Mr. Speaker, because I know that it can be taken up, maybe on the Senate side if they want to, and that's why I'm opposing it. It's too early to do all these things."

Representative Tom then rose and stated:

"Mr. Speaker, I'd like to speak against the amendment. It's really not needed. The Constitution in Article XVII,

Section 2, sets out the method for voting on constitutional questions and we as a Legislature have no power to alter that constitutional method. It's already set out.

"The Constitution says, and I quote Article XVII: 'The convention shall provide for the time and manner in which the proposed constitutional revision or amendments shall be submitted to a vote of the electorate,' provided that each amendment shall be submitted in the form of a question embracing but one subject. And provided further that each question shall have designated spaces to mark yes or no on the amendment.

"I did some quick checking, Mr. Speaker, and I hope I'm not wrong in this. Representative Thielen always comes up with these questions and I'm always hopping with her questions. But I believe that the Legislature, in 1980, did pass an amendment in Senate Bill 1703 and in that, the Conference Committee Report on the bill, CCR No. 3-80, stated, and I quote: 'The bill provides that each proposed constitutional amendment will be submitted to the voters in the form of a question embracing a single subject, which will require a yes or no vote for ratification.'

"This proposed amendment to the Constitution was approved by the voters and is in our Constitution today. In short, the subject being proposed today is already explicitly covered by the Constitution. We are not in the position to add or to subtract from the constitutional provision. The convention must follow the Constitution and have separate amendments embracing one question and each having a space to mark yes or no.

"Thank you, Mr. Speaker. I ask that since it's superfluous to vote against this amendment."

Representative Thielen then rose and stated:

"Mr. Speaker, if I may ask the Judiciary Chair to clarify. He is stating then, contrary to what Representative Yonamine said, that already these will go out as individual questions? We will be able to vote on them individually? It won't be a groupie provision. Is that correct?"

Representative Tom then rose and responded:

"Mr. Speaker, I've given you my quotes, I've given the Representatives -- each of you here -- my quotes. I'm not here to say one is right and one is wrong. I would suggest that anyone who has questioned what I say can go look it up."

The motion to adopt the amendment was put to vote by the Chair and failed to carry by voice vote.

At 6:17 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 6:20 o'clock p.m.

The motion to adopt the report of the Committee and to pass H.B. No. 119, HD 2, on Third Reading was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 119, HD 2, entitled: "A BILL FOR AN ACT RELATING TO A CONSTITUTIONAL CONVENTION," passed Third Reading by a vote of 50 ayes, with Representative Yamane being excused.

The Chair directed the Clerk to note that H.B. No. 119 had passed Third Reading at 6:22 o'clock p.m.

Stand. Com. Rep. No. 1058 and H.B. No. 1805, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1805, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Fox rose and stated:

"Mr. Speaker, I rise to speak in favor of House Bill 1805 with deep reservations. This is a bill that provides for the funding of the Convention Center by capping the county transient accommodations tax at the level of fiscal year 1995. The result is to take \$16 million away from the counties and use that money to try to fund the Convention Center.

"The bill does an additional thing, it is a positive thing. It takes the public service company tax and it takes the unadjudicated fines and awards them to the counties. But this money is subtracted from the money they would otherwise get from that capped transient accommodations tax.

"The result is more money is given to the Convention Center than needs to go to the Convention Center, and the counties are asked to pay for the Convention Center through the capped transient accommodations tax that they get. The counties get less money, the Convention Center gets more money than it needs, and somehow we then solve the problem.

"The basic fix that's needed in this bill is to take away the cap. If we took away the cap, the counties would get the money that they've come to count on and this is very important, especially for the neighbor island counties. But it's also important to the City and County of Honolulu. If the City and County of Honolulu doesn't get the transient accommodations that it expects to get, Mayor Harris has already threatened to raise property taxes and to fix the blame on the Legislature, where it appropriately belongs, if we force the City and County of Honolulu into that position.

"We don't need to go there. We don't have to cap the TAT. The public service company tax and the traffic fines, if added to the current TAT pool, would create enough money to take care of the Convention Center. The Convention Center needs approximately \$20 million a year to finance its debt service. The public service company tax plus the traffic fines is \$24 million. So introducing that money into the pool provides sufficient money to take care of what's needed to finance the Convention Center. Basic bottom line point -- we do not need to cap the TAT to take care of the Convention Center.

"Thank you, Mr. Speaker."

Representative McDermott then rose and stated:

"Mr. Speaker, I'd like to rise to speak against House Bill 1804. I'll make my comments brief. We should have the courage to deal with this issue and not pass it on to the City and County. That's not fair to them. We should have the courage to deal with it.

"Thank you."

Representative Cachola then rose to speak in support of the bill, stating:

"Mr. Speaker, this bill proposes adjustments to the revenue sharing system with the counties by capping their share of transient accommodations tax at the 1994/1995 level. This bill will provide funding for the debt service,

the operations and the marketing of our Convention Center, and is necessary in order to avoid raising taxes.

"The reason why I said it's going to avoid raising taxes is because unless we pass this bill out, the pressure now is to raise the transient accommodations tax. If we increase the TAT, our tourism industry will suffer. Economic indicators show that our visitor arrivals are probably level or below those of last year.

"In addition, Hawaii has a reputation as an aging, pricy destination. We cannot afford to give visitors another reason to avoid travelling here. Although TAT revenues to the counties will decrease, the counties will receive windfall savings from changes in the employees' retirement system. Adjustments in the salary assumption last year resulted in significant savings.

"House Bill 1806, HD 1, which we just passed, proposes further changes to the ERS which will result in additional savings. In addition, Mr. Speaker, in the past when the State gave the TAT to the counties, it still continued to provide some grants-in-aid to the counties. The current and proposed executive budgets still contain some grants-in-aid to the counties. So the State is really being responsible by trying to share with the counties, in spite of the fact that we gave them the TAT in 1990.

"In summary, Mr. Speaker, passage of this bill, number one, guarantees funding for the debt service, marketing, operating expense, expenses of the Convention Center; number two, it avoids raising taxes which all of us don't want to do; and third, it is absolutely necessary for ensuring the success of our Convention Center, one of the key elements in our whole poor economic recovery.

"Another thing that I can say, Mr. Speaker, is that the debt service, operation and marketing of the Center is a responsibility and obligation of the State which we cannot avoid. I, therefore, ask all of you folks to please vote aye on this measure."

Representative Kanohe then rose to speak in support of the bill, stating:

"Mr. Speaker, capping the TAT tax and the appearance of taking funds away from the county is not anything that we take lightly, not anything that I or any of us would like to do. However, the alternative to addressing the problem of debt service to the Convention Center is an alternative that is not an option that we want to take, and that is to increase the TAT.

"But as we consider the salary assumptions of this fiscal year, this current fiscal year, which will also be applied to the next 3 years. Also that we will be transferring some of the public service utilities tax, as well as uncontested fines and ERS savings to the counties. The figures from Budget and Finance indicates very clearly that each of the counties over the next 3 years, including this current fiscal year, will realize more than they are currently getting.

"For that reason, I can, in good conscience, support this bill. For example, Kauai over these next 3 years, including this current fiscal year, will realize a net benefit of \$2.2 million; Maui \$5.8 million; Hawaii \$7.3; and City and County of Honolulu \$48.3 million. So again, I stand in support of this measure for those reasons.

"Thank you."

Representative Meyer then rose to speak against the bill, stating:

"Mr. Speaker, as the Chairman of the Tourism Committee said, this is our obligation. The obligation to support the Convention Center is ours, it's state government, it's not that totally of the counties. I can't support this bill because we are leaving every single county short because of our obligation.

"We leave the counties almost no choice except to raise taxes somehow, probably in the form of property taxes. I think it would be more honest for us to raise the TAT by 1%. This would be charged to our visitors. It would not be an additional burden to our already overburdened taxpayers, and an additional 1% is something that I think an average visitor would not balk at."

Representative White then rose to speak in favor of the bill, stating:

"Mr. Speaker, I have to point out also that I speak as a resident of Maui, the only county that provides a substantial amount of money from their TAT to the Visitors Bureau on that island. And I feel that if I can support it, many of the rest of us can.

"But I'd just like to point out, Mr. Speaker, that during the time that the State revenues increased by 63.5% with the excise tax increasing about 44.6%, the counties had more substantial growth rates than the State did.

"I'd also like to point out that in that same time frame that our revenues grew at 63.5%, the grants-in-aid to the City and County of Honolulu increased by 165%; grants-in-aid to the Big Island increased 141%; grants-in-aid to Maui increased 128%; and of course I won't use Kauai's number because they include substantial amounts of money for Hurricane Iniki relief.

"But I use those figures simply to point out that while we are leaving the counties in a position where we are capping the TAT, as Representative Kanoho said, we are actually leaving them in a position where they will have a revenue, a net gain.

"So I support this measure simply because we have a substantial number of responsibilities here and I think those levels of increases that we have seen over the past 6 or 7 years are quite substantial and for us to take back if, in fact, we are taking anything back, is certainly not unreasonable."

Representative Moses then rose to speak in opposition to the bill, stating:

"Mr. Speaker, the counties pay for the police, the fire, the roads and all the other infrastructure to help support our tourist industry. We heard in testimony here, just a few minutes ago, if we don't pass this bill we must raise the TAT. That's what we were just told.

"Therefore, if we do pass this bill, the counties must raise taxes. That means this bill is a tax increase. Why don't we just face it? If any county is forced, because of our actions here tonight, to raise taxes, this Legislature should take full credit for it.

"Thank you, Mr. Speaker."

The Chair then asked Representative Kanoho to "please repeat your speech again...on the question of taxes."

Representative Kanoho then rose and stated:

"Mr. Speaker, I would be very happy to do so. According to the figures from Budget and Finance, Kauai is expected through the next 3 years, and that is again including the savings from the salary assumptions that

was from a bill that we passed last year, \$2.2 million; Maui \$5.8 million; Hawaii \$7.3 million; and the City and County of Honolulu \$48.3 million."

Representative Morita then rose and stated:

"Mr. Speaker, I would like to register a no vote for House Bill 1805, and while I would like to be supportive of the State's plan, the county of Kauai is in dire straits. They face \$8 million in obligation payments to FEMA. The only thing that I can guarantee for the county of Kauai is that they will be here asking for a grant-in-aid."

Representative Cachola then rose and stated:

"Mr. Speaker, sometimes I just don't know what to believe on the other side, whether or not they want to raise taxes or not, because in the HD 1 of this bill, the City and County of Honolulu came to the Legislature and proposed a sales tax. It's not us who requested that. And the reason why they came up with the sales tax is because it's a tax which is less regressive and is exportable through nonresidents.

"By doing that, we would not be raising the property tax which will impact a lot of locals. Also, we will not be raising the TAT because any county which is going to use the sales tax would take away. . ."

At this point, the Chair interrupted and reminded Representative Cachola to "speak on House Draft 2."

Representative Cachola continued, stating:

"Yes, I do, Mr. Speaker. Take away the TAT so that we can give it to the counties whenever they need. So when it comes to this bill, Mr. Speaker, it came back to the point where it will still assist the county. By now capping the TAT based on the 1994/1995 level, we are trying to help them out by coming up with the bills that we previously passed, like House Bill 1806, plus other bills that we passed last year, which resulted in a net gain for them rather than a net loss.

"Thank you, Mr. Speaker."

Representative Kawakami rose in support of the measure with reservations and asked that her comments be inserted into the Journal, and the Chair "so ordered."

Representative Kawakami's remarks are as follows:

"As amended, HB 1805 will change the current distribution of funds generated by the (TAT) to the counties. It is effective July 1, 1997.

"Mr. Speaker, I believe that the timing of this bill is bad. Please understand that the county governments have already started to prepare their 1997-98 operating budgets, and they have done so while incorporating a TAT allocation based on the State's existing allocation formula. By the time we adjourn the 1997 Legislature, the counties may be very far along in their budget deliberations. How will the county governments have enough time to adjust their budgets when this bill is passed? It is easy to imagine the planning and logistical hardships this bill can create for our counties.

"But the main iniquity of this bill, Mr. Speaker, relates to how it reduces the counties' shares of the TAT back down to what they were in 1994-1995. Admittedly, the bill purports to compensate for the difference by giving the counties a share of revenue from taxes on public service utility companies and revenue from uncontested traffic fines. But, Mr. Speaker, this may simply not be enough to make up the difference. Budget Director Anzai

has testified that this bill will cause net revenue decreases of about 15% to 18% for each of the county governments.

"As time goes on, the revenue lost by the counties will grow annually, because their frozen TAT shares will not be able to grow as the total TAT revenue grows. Since 1991, the average growth in TAT revenue has been about 10% per year. Under this bill, the counties won't see the benefit of any of this growth.

"Mr. Speaker, the county governments are really in no position to absorb the revenue decreases that this bill involves. I remind my colleagues that real property values have continued to fall, thereby diminishing what has always been the counties' main source of revenue.

"Furthermore, Mr. Speaker, I recognize the importance of meeting the debt service requirements for the Hawaii Convention Center. But we must do so in a way that is fair to all of the county governments, including Maui, Kauai and the Big Island. After all, it is unclear that these outlying counties will gain as much from the Convention Center as the City and County of Honolulu will.

"Therefore, Mr. Speaker, I feel that we should continue with the current TAT allocations until a more equitable way to pay for the Convention Center can be drafted.

"Thank you, Mr. Speaker."

Representative Say rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Say's remarks are as follows:

"Mr. Speaker, this bill would place a freeze on the amount of funds that go to the counties of this state from the Transient Accommodations Tax known as the 'TAT' or hotel tax. The maximum any county could receive in TAT allocations would be what was received in FY 1995.

"While some may believe this is a drastic step that will do great harm to the counties, I would offer the following facts:

"The original intent of the TAT when adopted in 1990 was to help fund the operations and debt service of the convention center and for tourism promotion as a means of broadening and stabilizing our one and only viable industry.

"The revenues from this hotel tax has risen at an average of more than 10% a year which is more than any other sector in the State has produced, and 95% of this has gone to the counties for the past 7 years.

"The revenues for the counties from FY 1991 to FY 1996 show an increase of 35%, going from \$68.3 million in FY 1991 to \$92.4 million in FY 1996. If the State's revenues took such a big increase we would not be here today facing major cuts and as tight a fiscal budget as we on the Finance Committee have had to work on given flat revenues and increasing demands.

"If the TAT increased at the General Fund tax revenue growth rate, the counties would be receiving \$76.9 million in FY 1996 rather than the actual TAT receipts of \$92.4 million, or a difference of \$15.5 million.

"If we look at the last grant-in-aid in 1989 to the counties which was \$18.2 million, and grew that by the General Fund tax revenue growth rate, the counties have received \$40.5 million more under the TAT for FY 1996.

"Mr. Speaker, whichever way you look at it, the counties have been receiving healthy windfalls. I believe it is time that at least SOME of the TAT be redirected to what was originally intended as an investment in the future, the establishment of new markets through the Convention Center and its related marketing efforts. We are in a crisis when you look closely at the fading Japan market, which will no longer hold up the already down mainland market.

"The TAT has truly been a windfall to the counties over the years, and although the counties may claim that all this money is used every year to improve the health of the visitor industry in their county, I would ask 'How?' 'Where?' 'What is the evidence?' Especially when the State takes responsibility for much of the highway and road repair and maintenance, all of the state park improvements and maintenance, and other infrastructure. Where has the TAT allocation at the county level made a noticeable difference?

"If there is a disagreement with this point, I would ask each county to come forward with some kind of expenditure plan which will show us how they will spend their TAT allocation on strictly visitor-related activities. What bothers me, Mr. Speaker, is when we hear disturbing reports about the use of TAT cash to fund county capital improvement projects instead of public bond issues. While this may allow the counties to maintain a relatively debt free fiscal balance, I have a problem with that when it's at the price of straining the State's own debt ceiling and debt service payments.

"I would point out, Mr. Speaker, that we face a budget shortfall of \$300 million while the counties have enjoyed everything from \$10 million to \$40 million more than what they would otherwise have. I wish our fiscal picture were as good.

"Further, I would emphasize that we are not simply taking something away without providing other options. The bill establishes additional income streams through public service company taxes and uncontested traffic fines. We are also NOT eliminating the counties' TAT allocation entirely, but placing it at a reasonable level which is already in excess of what their original grant-in-aid amounts were, and which will allow us to meet our original obligation for the Convention Center.

"If taxes are supposed to be related to its origin, as this one was clearly intended to do, then what we have now is a tax that has devolved into a fixed allocation used for unmeasurable purposes. And while it is arguable that perhaps the counties deserve their share of a visitor-related tax to enable them to invest in the health of their own visitor industry, I would ask that they look to the larger picture and help us turn back what is expected to be a continuing decline in this very industry we all need. If we don't have visitors, there will be no funding available for the counties at all.

"Mr. Speaker, I would ask our counties to live within their means as we all have had to do, especially over the next two years. I would urge my colleagues to vote 'aye' on this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1805, HD 2, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," passed Third Reading by a vote of 39 ayes to 11 noes, with Representatives Halford, Kawanakoa, McDermott, Meyer, Morita, Moses, Pendleton, Tarnas, Thielen, Whalen and Ward voting no, and Representative Takumi being excused.

The Chair directed the Clerk to note that H.B. No. 1805 had passed Third Reading at 6:39 o'clock p.m.

Stand. Com. Rep. No. 1084 and H.B. No. 2065, HD 3:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2065, HD 3, pass Third Reading, seconded by Representative M. Oshiro.

Representative Case rose and stated:

"Mr. Speaker, I rise in strong support of this bill, which proposes to follow the results of the recent Native Hawaiian Vote by providing matching funds to assist our Hawaiian community to elect delegates, convene a convention to consider a native Hawaiian government, and prepare findings and recommendations.

"Mr. Speaker, of the many controversial and important proposals considered by your Committee on Hawaiian Affairs, some of which are on the calendar for later today, this is, in my view, and perhaps surprisingly to some, the most important. It is that important and vital because it provides the big picture, the unifying thread, the 'big tent,' whatever you want to call it, in which all other issues affecting our Hawaiian community, including those today, may be viewed in context.

"This proposal basically continues all of us, both Hawaiian and non-Hawaiian, on a path to which we, as a society, committed ourselves somewhere around two decades ago. That path embraced the goal of greater self-determination and self-sufficiency for those whose ancestors lived in Hawaii prior to Cook's arrival, and rejected an indefinite continuation of what I view as a failed policy of dependence and wardship.

"It is right that, on occasions like this, we should revisit that goal and ask whether we all agree that it still remains relevant. It is necessary that, given the continued demographic changes in Hawaii, which frankly see fewer and fewer with any real understanding or appreciation or even tolerance of Hawaiian issues, we should ask whether that goal is still endorsed by the broader community.

"For many, it does remain relevant and should be embraced because of what are viewed as historic wrongs including the events of 1893. But, while there is no doubt that such wrongs were committed, many others ask what responsibility they should bear today for wrongs by others over a century ago.

"Reasonable people may differ on the moral judgment called for in the latter question. But I suggest that it is not necessary for us to endlessly debate and revisit that point to conclude that the goal of greater self-sufficiency and self-determination for Native Hawaiians remains very much relevant and continues to be the right direction for our society, as a whole, to take.

"This is because the consequences of history are with us today in the blunt assessment, as often mentioned on this floor, that, in many categories of social needs, our Hawaiian community is not thriving. As a citizen, I should do what I can to help, regardless of the cause. As a legislator, I may, and do, conclude that the way to help is to break a vicious cycle of dependence and foster increased self-reliance.

"Mr. Speaker, it is important that, in proceeding with this goal, the right balance of state involvement and distance be found. On the one hand, self-determination, as has been mentioned many times in our committee and elsewhere, means just that. It is clear, however, for the

reasons that are set forth in your Committee's report relating to court decisions on the constitutionality of the state expending funds on such a matter as this process, that the recommendations of any convention that is convened must remain purely advisory. On the other hand, to pretend that the state cannot, should not and must not coordinate its overall goals for all citizens with those goals identified by the Hawaiian community as important to that community for self-determination and self-sufficiency is just that: a pretense.

"For these reasons, I believe it is important to outline four general overlapping issues or themes for consideration as we all debate related issues today and continue this process. First, 'sovereignty,' an often used and greatly misunderstood term, can stand for many things, but essentially it implies some Native Hawaiian entity or entities existing with some degree of independence from the State, be it the Office of Hawaiian Affairs, or the Department of Hawaiian Home Lands, or some combination, or some mutation, or some entirely new entity. Second, self-determination and self-reliance implies the devolution of some rights and obligations now borne by the State with respect to the Hawaiian community to the Hawaiian entity.

"Third, the entity can only function in fulfilling its rights and obligations with an adequate, self-sustaining land and/or money base, i.e., a corpus. And fourth, closure must be brought to outstanding disputes in a manner that is regarded as fair and reasonable by all citizens of Hawaii. Each of these four objectives is incorporated in and governs much of the discussion that we have on Native Hawaiian issues.

"Mr. Speaker, the goal of pulling all of this off is a tall and difficult order, but I am convinced that it is both necessary and achievable. And, I believe, if we keep our collective eye on the distant goal, the necessity of many of the interim decisions which we must make--which are, to me, just that: interim decisions -- will become apparent.

"For these reasons, I urge that we support our Hawaiian community in undertaking the next stage of this process and in supporting this bill.

"Thank you."

Representative Kawanakoa then rose in strong support of the bill and stated:

"Mr. Speaker, the Hawaiian people have spoken and they have clearly stated that their wish is to elect delegates to propose a native Hawaiian government. Simply put, the process must continue.

"I'm very concerned that this process does continue because each day that this process is delayed or hampered, a little more of our Hawaiian culture and the Hawaiian people fall further into degradation. We all know the Hawaiians fare worse on all of our social indicies, with respect to health, welfare, crime, housing. Take for instance heart disease, diabetes, cancers -- the list goes on and on.

"We must not hinder the Hawaiian sovereignty movement. In fact, as the prior speaker has mentioned, we should embrace it. Hawaiian self-determination holds out the promise of reestablishing the Hawaiian culture to its rightful place, here on the Hawaiian islands.

"But even more important is the dream that the Hawaiian people, by managing their own land and their own resources in a culturally appropriate manner, will restore themselves. Restore themselves to the proud, vibrant, healthy and robust people that they once were.

"Mr. Speaker, this is a good bill and it is appropriate for us, the State of Hawaii, to support or to otherwise offer our resources, and just our resources, to the Hawaiian people so that they can continue the process of self-determination. And in this matter, I commend the House and the members for supporting this worthy bill and wish that we would continue, in this process, towards uplifting the first people's of this island.

"Thank you, Mr. Speaker."

Representative Meyer then rose and stated:

"Thank you, Mr. Speaker. I find it very difficult to rise in opposition to this bill. I've struggled with this. I've listened to the testimony. I have a great number of Hawaiian people in my district and I have heard from various groups. When this bill came before the Finance Committee, the Office of Hawaiian Affairs supported the intent, but did not come out totally in support. The Kanaka Maoli tribunal was not in support, Kapakaukau and Ka Lahui Hawaii and many other individuals.

"I'm not totally convinced that this is something all the Hawaiian people want. The figures from the Sovereignty Vote were very compelling. Out of 85,000 ballots, over 60% were not mailed in and approximately 10% voted no. That leaves like 26% speaking for all the Hawaiians.

"Now some will say, well you don't have a perfect turnout. When we were elected in 1996, there probably wasn't 50% of registered voters that voted, and that's true. But in 1994, in the OHA elections, 73% of the ballots were returned and again we were dealing with a group of Hawaiian people and they supported that election. So while I may regret that I'm not going along with this, I must listen to the people that I feel have given me very good arguments and look at the resources of the State that are limited at this time. \$8.3 million is not a small amount of money and the State would be responsible for a third of that. We can't be at all sure that Ha Hawaii can come up with their third. I don't see that there's any problem to hold off and wait till next session."

Representative Thielen then rose and stated:

"Thank you, Mr. Speaker. For many of the reasons that my colleague just stated, I have some very serious reservations about the bill. I am going to vote in favor of it, but I do feel there are a lot of concerns about that. And maybe some of them can be addressed, I don't think we can address the fact that a number of people did not return those ballots and I think that was a deliberate act.

"Thank you, Mr. Speaker."

Representative Kahikina then rose to speak in support of the bill, stating:

"Mr. Speaker, may I start off by saying, there is no perfect government on this earth and with all its weaknesses, God Bless America. A process only works if we participate and I see in this bill that we are giving the native Hawaiian people a chance to participate.

"In other subject committee reports, they indicate other entities that represent native Hawaiians did get involved and did submit testimonies of support. Mr. Speaker, what leader would tell his people who is suffering socially, in education, economically, tell his people to do nothing. Mr. Speaker, this is not binding, this is the start of the first stage of a process which is called a democratic process.

"I am proud to be an American. I'm proud to be a Hawaiian. If you put the Hawaiian and an American together, both of their initials spell HA. This is what this thing is all about, Ha, aloha. In this process, even right here we don't agree all the time, but can't we agree to disagree, but not be disagreeable?"

"I say, give the native Hawaiians a chance, even with disagreements. Even the Boston Tea Party wasn't no Tupperware party. They had people that disagreed. And even in this government, our forefathers suffered the same kind of arguments that we're talking about. I say, let this process go through. What are we afraid of? Let the people have their democracy.

"Please support this bill. Thank you."

Representative Morita then rose and stated:

"Mr. Speaker, could you register a yes with reservation please," and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2065, HD 3, entitled: "A BILL FOR AN ACT RELATING TO HAWAIIAN SOVEREIGNTY," passed Third Reading by a vote of 50 ayes, with Representative Meyer being excused.

The Chair directed the Clerk to note that H.B. No. 2065 had passed Third Reading at 6:53 o'clock p.m.

Stand. Com. Rep. No. 1085 and H.B. No. 1746:

Stand. Com. Rep. No. 1086 and H.B. No. 1747:

Stand. Com. Rep. No. 1087 and H.B. No. 1748, HD 1:

Representative Okamura moved that the reports of the Committees be adopted and H.B. Nos. 1746, 1747 and 1748, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Case rose and stated:

"Thank you, Mr. Speaker. I rise in support of all three bills and wish to provide remarks for all three. The first bill basically confirms and clarifies the authority of the Kaho'olawe Island Reserve Commission over the Kaho'olawe Island Reserve.

"That Reserve consists of the entire island of Kaho'olawe as well as its waters. The other bills provide that the Commission may impose penalties and administer the equivalent of DLNR enforcement authority.

"Mr. Speaker, Kaho'olawe, of course, was originally part of the lands that were ceded to the United States in 1898. It was returned to the State after the long and difficult period of Federal use, with the condition that it would be eventually conveyed to the sovereign Hawaiian entity once created.

"In remarks on H.B. 2065 which we just completed, I noted the goal of assuring an adequate land base for any Hawaiian entity, as an interim measure, that we should provide for any potential land base that would eventually be conveyed to any Hawaiian entity. These three bills are very important components of that goal because they collectively aim to preserve, protect and enhance this valuable and emotional asset, toward the day when it may in fact be incorporated into that land base.

"Thank you."

The motion was put to vote by the Chair and carried, and the reports of the Committees were adopted and H.B. No. 1746, entitled: "A BILL FOR AN ACT RELATING TO DUTIES OF THE KAHO'OLAWA ISLAND RESERVE COMMISSION"; H.B. No. 1747, entitled: "A BILL FOR AN ACT RELATING TO THE KAHO'OLAWA ISLAND RESERVE"; and H.B. No. 1748, HD 1, entitled: "A BILL FOR AN ACT RELATING TO KAHO'OLAWA PENALTIES," passed Third Reading by a vote of 48 ayes, with Representatives Jones, Meyer and Moses being excused.

The Chair directed the Clerk to note that H.B. Nos. 1746, 1747 and 1748 had passed Third Reading at 6:55 o'clock p.m.

Stand. Com. Rep. No. 1088 and H.B. No. 1713, HD 1:

Stand. Com. Rep. No. 1089 and H.B. No. 1036, HD 2:

Representative Okamura moved that the reports of the Committees be adopted and H.B. Nos. 1713, HD 1, and 1036, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Case then rose and stated:

"Thank you, Mr. Speaker. I wish to rise in support of these two bills and provide joint remarks. One bill proposes to authorize up to \$100 million in revenue bonds for use by the Department of Hawaiian Home Lands for capital improvement projects over the next few years, while the other is technical in nature. It should be noted that these bills are submitted in conjunction with House Bill 1712, as to which I provided remarks earlier, which increases administrative flexibility to the DHHL to essentially try to put more native Hawaiians onto the Hawaiian Home Lands.

"In my remarks just completed on H.B. 2065, I spoke to the necessity of strengthening and assisting current Hawaiian entities, as an interim measure, and also resolving historic disputes in a fair and reasonable manner. These bills, as well as the capital improvement bill which we will be taking up soon, are important components in our continuing interim effort to provide DHHL with the maximum assistance to perform its mission.

"I think it's worth reviewing the progress of issues concerning DHHL as well DHHL's future plans. Over the past decade, to resolve claims related to DHHL for the post-statehood period, the State paid millions of dollars and transferred thousands of acres to DHHL. Most notably, in 1995, in an action taken by this Legislature, the State agreed to pay DHHL what we've referred to as the \$600 million settlement to finally resolve virtually all claims relating to that period.

"As a result of these actions, DHHL has a good full inventory of Hawaiian Home Lands, around \$180 million currently in the bank, and the promise of a long term, substantial, steady income stream. With these healthy resources, it is embarked upon an ambitious but achievable plan to spend upwards of \$300 million over the next five years to place thousands more native Hawaiians on the Hawaiian Home Lands.

"These bills facilitate these improvements, accelerate the annual settlement payments, and provide DHHL again with the flexibility it needs to undertake innovative and practical financial and ownership approaches. They are important components of the State's overall effort to assist

DHHL and its beneficiaries, and I urge your support for them.

"Thank you."

The motion was put to vote by the Chair and carried, and the reports of the Committees were adopted and H.B. No. 1713, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED," and H.B. No. 1036, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS," passed Third Reading by a vote of 49 ayes, with Representatives Jones and Morihara being excused.

The Chair directed the Clerk to note that H.B. Nos. 1713 and 1036 had passed Third Reading at 6:59 o'clock p.m.

Stand. Com. Rep. No. 1090 and H.B. No. 2207, HD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2207, HD 2, pass Third Reading, seconded by Representative M. Oshiro.

Representative Case rose and stated:

"Mr. Speaker, this bill is obviously an emotional one and has engendered much opposition. It addresses a highly complex issue that requires us to face some unavoidable facts and decide which way the state should go.

"Much of this concern, however, judging by the calls to my office, the questions and comments from the public as well as my fellow colleagues, and many of the publications, ads and stories, reflects a basic misunderstanding of the goals of this measure. So I think some time devoted to the facts in as unemotional a manner as possible is necessary.

"And I ask my colleagues, as you listen to these facts, to consider what is the responsible thing for us to do? Not what is easy, politically popular, or the path of least resistance. What is the right thing for us to do? What would you do if you had to make this decision all by yourself for the whole state, because you are the decision maker, we are the decision makers.

"So let me outline those facts. I realize there may be overgeneralizations, but it is necessary for me to describe them in a simplified fashion in order to get through this summary in my allotted time.

"There are about 4.1 million acres of land in Hawaii. Before 1848, the monarch basically owned all of them or at least had the right and power to dispossess all others.

"In the Mahele, the land division of 1848, some of that land was retained by the monarch as crown lands, some was allocated to the government, and the remainder was allocated to the konohiki, or chiefs. In 1893, the Republic of Hawaii claimed ownership of the government and crown lands. In 1898, at annexation, these lands, then numbering about 1.8 million acres, were ceded to the United States, and in the Organic Act of 1900 the Territory of Hawaii assumed responsibility and control.

"The period 1900-59 saw various exclusions from those lands for devotion to other purposes. For example, in 1920 200,000-plus acres were set aside and administered thereafter separately under the Hawaiian Homes Commission Act of 1920. Hawaii Volcanoes National Park came out of the public lands at 200,000-plus acres,

and the Island of Kahoolawe at 28,000 acres. In all, roughly 600,000 acres were allocated to other specific purposes during the territorial period.

"At statehood, under the Admission Act the remaining 1.2 million acres of those lands were transferred to the State of Hawaii, in trust, for five purposes. And I think this is something we often forget: there were five separate purposes. (We also forget that the public land trust as we know it today came into existence at statehood, not, as some claim, 19 years later.)

"Specifically, section 5(f) of the Admission Act stated that the lands granted to the State, plus the proceeds from the sale, disposition, or income of those lands, were to be held by the State, as a public trust, for one or more (let me say that again, one or more; let me say it again, one or more) of five purposes: public education; native Hawaiians (defined as 50% or more blood quantum), farm ownership; home ownership; and public use.

"So the State could use those lands, roughly 1.2 million acres, for one or more of those purposes. And for the period 1959-80 the State did in fact use those lands and their revenues primarily for public education as specified and allowed under 5(f).

"The 1978 Con-Con, however, took a look at many issues relating to Hawaiians and a number of amendments were incorporated into our Constitution as a result. One, of course, created the Office of Hawaiian Affairs. Another provided that the beneficiaries of those ceded lands were native Hawaiians and the general public. And one specified that OHA was to manage and administer the income and proceeds from that 'pro rata portion' of the ceded land trust.

"The Con-Con did not define what 'income and proceeds' were or what 'pro rata' meant. But in 1980 we enacted a law which provided that the pro rata portion was 20%, and the State thereupon commenced to pay a portion of the income and proceeds to the Office of Hawaiian Affairs.

"In the mid-1980s, OHA sued the State, claiming that it was not getting its fair share. That case was litigated in the courts all the way up to the Supreme Court of Hawaii. And in 1987, the Supreme Court, in an opinion known as Yamasaki, basically said it was not the courts' business to decide what income and proceeds are subject to the pro rata distribution. That, the Supreme Court said, is a political question, and the Legislature should determine it; the Legislature had not shown sufficient indication of intent or even resolve to decide that question, and you, Legislature, you're the right ones to do it, it's not for the courts.

At this point, Representative Tom yielded his time to Representative Case

Representative Case thanked the Chair and continued, stating:

"In 1990, following up on Yamasaki, the Legislature passed what we refer to as Act 304. That act stated that the pro rata portion was chargeable against 'revenues', provided a definition of revenues relying essentially upon a distinction between the sovereign and proprietary functions of state government, and established a process to try and resolve what retroactive payments might be due to OHA for the period prior to the effective date of Act 304.

"One extremely important provision of Act 304 stated essentially that the act was fully integrated and not severable, and I'll read it to you because I think it's vital

to an understanding of the dilemma we face today. This is section 16: 'The provisions of this Act shall be enforced to the extent they are not held to conflict with any federal or state law, rules or regulations. The provisions of this Act are not severable and if any provision of the Act, or the application thereof...is held to conflict with any federal or state law, rules or regulations this Act, in its entirety, shall be invalid...'

"In 1993, as a result of subsequent state-OHA negotiations, the Legislature passed a bill in which it appropriated \$138 million to OHA in retroactive payments. Those monies were invested by OHA and in the last five years have grown to where OHA has a cash corpus of roughly \$245 million producing dividend and interest income alone of roughly \$10 million annually.

"Those negotiations also left on the table certain items as to which the state and OHA 'agreed to disagree.' Those were items on which neither OHA nor the state could agree on whether revenues from or relating in some way to the ceded lands were, in fact, subject to the pro rata distribution.

"In 1994, shortly after the \$138 million payment was made to OHA, OHA again sued the State, claiming entitlement to a portion of revenues which were among the 'agree to disagree' items and/or as to which the State denied OHA's claim. There are a number of categories of such claimed revenue, but basically the best example I can provide for you are the Duty Free stores in Waikiki which are not on ceded lands. There is a Duty Free store at Honolulu International Airport, which is cited partially on ceded lands, but OHA claimed revenue entitlement not only to the airport store, but to the Waikiki store.

"Also, OHA brought other suits against the State. For example, OHA challenged the State's ability to sell any of the ceded lands. As a result of that challenge, there are two HFDC housing projects in Lahaina and Kealahou where the State has invested millions of dollars (I believe the figure is \$50 million) into infrastructure and improvements, but which are sitting idle.

"In mid-1996, Circuit Court Judge Daniel Heely issued a number of decisions on preliminary motions in OHA's cases. In one, he held against conveyance, or at least that's what the Attorney General interprets his decision to stand for. That is why those housing projects are on hold.

"In another decision, Judge Heely articulated what is referred to as the 'but for' analysis: but for the fact that Duty Free operates at the airport, Duty Free would not be operating a shop in Waikiki, and therefore OHA can claim a share of the Waikiki revenues. Damages were not quantified, but testimony was received by your Committee that the application and extension of the 'but for' analysis to other circumstances could well lead to in excess of \$1 billion in claims against the State.

"Some discount that \$1 billion-plus claim; for example, OHA states that the actual settlement value of the immediate case, from OHA's perspective, is more like around \$200 million. But you know, if you're operating a business or trying to anticipate a worst-case scenario or run a state, I think you're wise to err on the conservative side. It is easy for me to see how good-faith claims to such large amounts could be made, so I take that \$1 billion-plus figure very seriously.

"The other major event of 1996 was that the Inspector General of the U. S. Department of Transportation said that the State couldn't pay any revenues from the airport to OHA because that constituted unlawful revenue diversion, and the State was to cease paying any of those

revenues to OHA or lose future federal funding and reimburse the federal government \$7 million a year back to 1991, an aggregate of \$28, \$29, \$30 million. That issue is not finally resolved by the Department of Transportation, but the Inspector General has clearly issued that opinion.

"The result of these claims against the State has been felt in our bond markets. Of course we have to disclose these matters to potential bond purchasers. Here's one prospectus on \$150 million of general obligation bonds: a number of pages are devoted exclusively to the lawsuits and the potential claims against the State. It is obvious that the bond markets are extremely concerned.

"What are our current options on behalf of the whole state, including the Hawaiian community? What are our factual, unemotional options at the moment?"

"One of course is to remain in denial and avoidance mode. We can sit here as a Legislature and do nothing. We can just say: 'Hey, courts, you figure it out; OHA and the State, you beef it out; you go ahead, we're not going to worry about it; it's too hot to handle.'

"The first immediate consequence of doing nothing is that OHA's ceded land revenues will drop from roughly \$15 million a year to \$7 million a year indefinitely. The reason is because the Governor, I think rightly, has escrowed any further payments from the airport, which previously accounted for about half of OHA's revenues, contingent upon the final disposition of the Inspector General's opinion.

At this point, Representative Cachola yielded his time to Representative Case."

Representative Case thanked the Chair and continued, stating:

"We'll also go through at least two, probably three or more, years of further litigation. These cases are highly disputed in the courts; hundreds of thousands, maybe millions, of dollars are being spent on attorneys' fees. In my assessment as a litigation attorney, parties often get themselves into a spiral where egos get involved and it's hard to have cooler heads prevail; these two parties are just locking horns in court right now and that could easily continue for many more years. New litigation could also be commenced: for example, OHA has stated that it is considering suing the State in relation to the State's escrowing of the airport funds.

"Further, our bond rating could well decrease, we could continue this destructive polarization with no alternative, and the Lahaina and Kealakehe projects could continue to lie fallow. In sum, we could basically not proceed in any constructive direction towards our overall goal: the ultimate disposition of all of these matters with OHA, a global settlement.

"Your Committee on Hawaiian Affairs chose not to go down that road. We passed out a bill, the overall purpose of which was to provide a mechanism to settle, to get the parties to the settlement table, and to assure the status quo and a level source of funding for OHA during the period of resolution.

"Let me outline some of the specific points of this proposal. First, we established a settlement mechanism, a commission composed equally of four members of OHA and four members appointed by the Governor. That was recommended by OHA, OHA wanted that provision, we put it in. Second, we established a centralized accounting and payment system for the payment of agreed ceded land revenues. OHA has complained that the accounting is

haphazard and the payment system is coming from all directions. OHA wanted it, we put it in.

"Third, we set up an inventory of the ceded lands; that was something OHA wanted. Fourth, we established a moratorium on the sale of any ceded lands by the State other than to OHA and other than to take care of those two housing projects. That was something OHA wanted; it was important to OHA to maintain the land base while this settlement process was completed.

"Fifth, your Committee stated that it wanted the funding level for OHA during this interim settlement process to be established at a level source roughly what OHA had received in the past before escrowing of the airport revenues. OHA had requested such level interim funding, and the Finance Committee complied by providing for annual funding of a set \$15.1 million to OHA. Again, that would be double what OHA is now receiving.

"I want to digress briefly and answer a question asked by one colleague: is the \$15 million a guarantee, or is the \$15 million just the first \$15 million only if \$15 million of revenues are generated? It was certainly this Chair's intent that whatever figure was set by the Finance Committee would be the amount that OHA actually got, so that OHA would be in a better position that it is today while it went through the settlement process, and would therefore feel comfortable in proceeding in good faith with the settlement.

"Now the most controversial proposal in this bill--I want to state this very clearly because there's been a lot of obfuscation--but the most difficult approach we took, the place where we do disagree with OHA, the nub of OHA's objection, is in our clarification and redefinition of revenue under Act 304. We essentially retroactively excluded from revenue unpaid income and proceeds which Judge Heely mistakenly ruled were covered under Act 304, and also excluded the airports and harbors.

"We felt it absolutely necessary to do that for a number of reasons. The first is that the act as presently written and/or construed by the courts is causing major problems for the state with both the federal government and our bond markets. Second, the airport problem in particular is impacting Act 304's integration clause which I noted earlier. Technically, the Attorney General has stated, a claim may be brought that all of Act 304 falls because a provision has been held to be inconsistent with federal law.

"This action obviously scares OHA because Act 304 is the centerpiece of the allocation of revenues. But our feeling, as a Committee, was that if we also set an interim settlement mechanism, and if the state and OHA negotiated in good faith, and if we provided incentives to both sides to get through that negotiation, it would be better for the entire state. Our essential point to OHA is that the modification and clarification of Act 304, thereby solving broader state concerns, should not matter if OHA is provided a level source of funding and other assurances while the bigger picture is addressed.

At this point, Representative Okamura yielded his time to Representative Case.

Representative Case thanked the Chair and continued, stating:

"To answer a concern by another colleague, it was also our intention that the ultimate resolution of the ceded land trust disputes be something better than an endless argument over revenues; something other than endless litigation over whether you charge revenue on on-site or

off-site, improved vs. unimproved, gross vs. net, etc. In fact, OHA and we have talked about options such as outright partition, under which, at the end of the settlement process, the state would basically convey some of the ceded lands to OHA 100% in settlement, global settlement, of the disputes over outstanding revenues and in partial or total replacement of the current formula.

"It was further our intent that this global settlement would account for past payments, compromise past claims, and provide a lasting solution for the future. So the entire goal in redefining and confirming Act 304, in conjunction with the other provisions of the bill, was to provide for a good faith settlement table to which both parties would come with comfort.

"Now some will again say we should leave all that to the courts. But my response is that Act 304 is nothing more than a state statute, and when a court makes a mistake in interpreting a state statute it is entirely appropriate for the Legislature to correct that mistake. To quote Chief Justice Moon (I've been waiting to quote Chief Justice Moon): 'The Legislature has the trump card.' Judge Heely made a mistake of statutory interpretation, and the Legislature is fully entitled to correct that error.

"So let me just summarize by providing some of the big picture points of this proposal. The issue here is revenue from ceded land, not improvements or services but land, and we all got off track when we got away from that concept. The bill that we passed out is an interim measure; it deals with destructive litigation, takes care of immediate statewide problems, and sets up a settlement process, the ultimate result of which would hopefully be far preferable to all parties than the current mess.

"The bill must be viewed as part of a bigger picture relating to evolving Hawaiian self-sufficiency and self-determination which I addressed in earlier comments on HB 2065, HD3; it addresses, for example, establishment of a land base and the resolution of claims. It resolves political/policy questions where they should be resolved: in the legislature and not in the courts.

"In sum, this bill strives to provide for the fair and equitable resolution of issues of deep concern to both the Hawaiian community and the general public of Hawaii. It is not an easy proposal, but it is a responsible one, and I urge my colleagues to support it.

"Thank you."

Representative Pendleton then rose in strong opposition to the bill, stating:

"Mr. Speaker, the first reason why I am opposed to House Bill 2207 is because the bill cannot accomplish what it sets out to do.

"And second, because the bill sends a signal that the State of Hawaii would not keep its promises to the Hawaiians. We can neither accept the failure of House Bill 2207 to accomplish its own objectives nor tolerate its message that the very government cannot be trusted. Mr. Speaker, you will not hear me talk much about money in these remarks because when OHA was created by Con-Con in 1978, and Act 304 in 1990 provided a level of funding for OHA, it was contemplated that OHA would have sufficient funds from the trust lands to accomplish the objectives of the trust.

"House Bill 2207 is far more than an adjustment of Con-Con and far more than a mere clarification of Act 304. House Bill 2207 is about promises made and promises taken back. Mr. Speaker, House Bill 2207 is

objectionable because it sets out to inventory all lands subject to the public trust in a mere one year period. This directive contained in section 2 of House Bill 2207 has very disturbing ramifications for this bill and the future dialogue on public trust lands.

"As the distinguished representative from Manoa has stated, nearly 1.2 million acres are in the public trust and are currently inventoried using an archaic and practically useless system, of little value to the present dispute.

"Basically, Mr. Speaker, we all need to know of and agree on all the property and income arising from the ceded lands. A mere single year is hopelessly inadequate for this important and critical inventory, which will trace trust property back and determine income and other details. A proper inventory could and would serve all of the people of the State of Hawaii for hundreds of years and we should not underwrite a hurried job, which can only lead to further disputes, further lack of trust and expensive litigation.

"Mr. Speaker, House Bill 2207 is further objectionable because it significantly limits the revenues from the public trust. The federal government transferred ceded lands to the State of Hawaii with the expressed provision that the State of Hawaii was to, in part, hold such lands in trust for the betterment of the Hawaiian people.

"Acting as a trustee requires a high duty of diligence, loyalty, responsibility and money. After years of dispute the Legislature, in 1990, by way of Act 304, decided that OHA should receive 20% of the public trust revenue derived from proprietary government revenue. Unfortunately, litigation had to be pursued, to compel the State of Hawaii to acknowledge the actions of the Legislature. The litigation was resolved, as the committee report says, basically in favor of OHA.

"Mr. Speaker, now that Act 304 has been consistently interpreted to really mean what it says, that is entitling OHA to 20% of the public trust revenues, now this legislative body is proposing, in House Bill 2207, to take back promises made in 1990. Apparently the logic of House Bill 2207 is that if we mean what we say, then we have to change what we say, at least when we are talking to the Hawaiians about their revenue from the proprietary public trust property.

"Mr. Speaker, in 1990 we promised 20% of the qualified public trust revenue, but now that we are forced to own up to our promises, we want to lower the 20% and while we are at it, cancel our existing debt. I urge the members in this body to not be misled by the premise that the purpose of House Bill 2207 is to resolve the airport dispute arising out of the Duty Free shoppers case. The Standing Committee Report at great length tries to predicate, Mr. Speaker, the reasons for the passage of this bill, on the DOT's draft report regarding federal law concerning airport revenues.

"First of all, Mr. Speaker, the airport revenue issue is in its infancy and the resolution is not at all clear. Second, the airport revenue represents, at most, only a small part of the entire problem. The airport issue does not, in any way, justify the wholesale abandonment of the promises made to the Hawaiian people, in 1898, 1959, 1978 and 1990.

"The third and final reason, Mr. Speaker, that HB 2207 is objectionable is that it reneges on the Legislature's Act 304, passed in 1990, by denying OHA its 20% share of revenues, through a cap on OHA revenues and by retroactively denying OHA all that OHA has not received since the promises made in 1990. Since its inception in 1978, OHA has never received, what it

has been promised in the Constitution of this state, or in successive laws passed by this body. OHA has had to resort to the courts in a battle to acquire what the Legislature promised OHA from the State of Hawaii.

"Having basically prevailed, the Legislature now proposes to not only erase the State of Hawaii's legitimate obligations to OHA, but to cap OHA's revenues. The reason the euphemism for this in the Standing Committee Report is to prevent 'the classic litigation spiral.'

"Mr. Speaker, HB 2207 actually goes further. House Bill 2207 limits the size of the entire pie by decreasing the definition of public trust land, then limits the definition of revenues, and then finally caps the contribution to OHA. House Bill 2207 is a far-reaching and ultimately a misguided attempt to cripple any resurgence of OHA in the future by stripping property and revenue from the proprietary public trust.

"Mr. Speaker, as important as the internal problems and contradictions in House Bill 2207, including a hurried inventory of the troubling, symbolic ramifications of potential passage, OHA was established in 1978. . .

At this point, Representative Whalen rose and yielded his time to Representative Pendleton.

Representative Pendleton thanked the Chair and continued, stating:

"OHA was established in 1978 by the Con-Con at which many of my fellow members here were present and many of our most important community leaders participated in this decision making. OHA represented the manifestation of the vision to redress a century of neglect and to set the State of Hawaii on the path of reconciliation with the Hawaiian people.

"Mr. Speaker, OHA represents the beneficiaries of the public trust lands that is the Hawaiian people. OHA is the State of Hawaii's manifested commitment to the Hawaiian people. We have made a lot of promises to OHA which we have not kept and this House Bill 2207 is the latest and perhaps most drastic action to go back on our promises. The message that would be sent by passing House Bill 2207 cannot be clearer, Mr. Speaker, and that message would be that OHA and the Hawaiian people will not be treated fairly by the people of the State of Hawaii. Litigate if you must, protest if you must, but if you accomplish anything even in a court of law, we will take it back from you in the end. Is this the message we wish to send, Mr. Speaker? As for me, I will have no part in sending such a message.

"Mr. Speaker, I want to make it clear that I do not cast any doubt on the Chair of the Hawaiian Affairs Committee. I'm not suggesting or ascribing to him malevolence or ill will. I'm just saying that the actual effects and ramifications of this bill are bad for the Hawaiian people. House Bill 2207 can only serve to strengthen those who advocate acting outside of the laws and democratic practices.

"Those who claim that the State of Hawaii cannot be trusted, those who proclaim that the State of Hawaii is untrustworthy, this is not the message that I want to send, Mr. Speaker. And for all the reasons forestated, I will be voting no on House Bill 2207."

Representative Kahikina then rose and stated:

"I'd like to voice my opposition to H.B. 2207, HD 1, and ask that the words of my colleague, Representative Pendleton, be entered into the Journal as if my own," and the Chair "so ordered." (By reference only.)

Representative Kahikina continued, stating:

"Mr. Speaker, as I quoted earlier that 'there is no perfect government,' I'm proud to stand here to be an American because in our State Constitution, as I read the third paragraph in the preamble, it says: 'We reaffirm our belief in a government of the people, by the people and for the people, and with an understanding and compassionate heart toward all the peoples of the earth, do hereby ordain and establish this Constitution for the State of Hawaii.'

"Mr. Speaker, in this Constitution it goes and guarantees each individual rights, equality of rights, freedom of religion, speech, press, assembly and petition, but more so in Section 5 of Article I, the Due Process and Equal Protection reads: 'No person shall be deprived of life, liberty or property without due process of law.'

"This equal protection was rooted by the State Constitution in the Fourteenth Amendment, and I read in part: 'Nor shall any state deprive any person of life or property without due process of law.' Without due process of law. Mr. Speaker, Chairman Case is correct when he speaks of the public trust and the public trust lands.

"In Article XII, Section 4, it reads: 'The lands granted to the State of Hawaii by Section 5(b) of the Admission Act and pursuant to Article XVI, Section 7, of the State Constitution, excluding therefrom lands defined as "available lands" by Section 203 of the Hawaiian Homes Commission Act, 1920, as amended, shall be held by the State as a public trust for native Hawaiians and the general public.' May I repeat that -- 'native Hawaiians and the general public.'

"This is not a State statute, this is the Constitution, but if we go on to Article XVI, Section 7, the Compliance With Trust, it reads: 'Any trust provisions which the Congress shall impose, upon the admission of this State, in respect of the lands patented to the State by the United States or the proceeds and income therefrom, shall be complied with by appropriate legislation.' That is us. But, Mr. Speaker, the last sentence says: 'Such legislation shall not diminish or limit the benefits of native Hawaiians under Section 4, Article XII.'

"It definitely reads, if you want the intent of our forefathers, it reads: 'It shall not diminish or limit the benefits of native Hawaiians under Section 4, Article XII 12.' And we quoted two identified cases of constituents -- native Hawaiians and the general public.

"Mr. Speaker, I am not a lawyer but with the equal protection. What if we ask the question: What if the government adopts programs to remedy disadvantages that the minority suffer because of the lingering effects of past discrimination against them? Or the question: What if the government adopts programs or requires private employers to adopt race conscience remedies, popularly known as 'affirmative action' by those who support them, and as reverse discrimination by those who oppose, that provide special protection for minorities? Do such programs create a suspect classification? Are they unconstitutional? There has been no more hotly debated constitutional issue than this one that we are debating.

"Mr. Speaker, House Bill 2207, House Draft 2, is clearly unconstitutional because it intends to modify a contract without the consent of one of the parties to the contract. Act 304 is the formal recognition of a contractual agreement that resolves some of the claims of Hawaiians against the State of Hawaii, for the lands taken from the Kingdom of Hawaii. That's the real issue here.

"Without the consent of or compensation to the native Hawaiian people, may I say that our members here of Japanese ancestry, your people got reparations for being in an internment camp. Our people are still living in internment camps under wardship via the Department of Hawaiian Home Lands. The special trust relationship imposed on these ceded lands have been repeatedly and consistently recognized over the course of a hundred years.

"Act 304 is a contractual result of court mandated negotiations between the State and OHA. And unilateral alteration or modification of Act 304 will be an impairment of a contractual obligation and therefore would be unconstitutional.

"The irony of it all is that even after a series of court victories, OHA has expressed a strong commitment to negotiate with us. . .

At this point, Representative Hamakawa rose and yielded his time to Representative Kahikina.

Representative Kahikina thanked the Chair and continued, stating:

"OHA had expressed a strong commitment to negotiate with us in good faith and have repeatedly sought opportunities to resolve its differences with the State. But those offers have been rejected by us and we have challenged OHA with increasing efforts to reduce Hawaiian entitlements and revenues.

"I, as a third generation on the aina ho'opulapula, had to go through the ritual of qualifying and quantifying my Hawaiianess. I would be the first to say that I question all of the Hawaiian agencies to bring those benefits or those entitlements to the native people. But we continue, Mr. Speaker, to pass out measures as this.

"Finally, Mr. Speaker, in the battle between David and Goliath, Goliath's size and belligerence could not match the righteousness of David. Hawaii voters know Hawaiians are being treated unfairly, as do many of us who have been elected to this office, and I pray that many of you would have the courage to stand up. May I end by saying that the good almighty Bible reads that 'to know to do right and not do it is a sin.' But I know that we're not afraid of that three letter word, we're more afraid of the other three letter word, and it's tax. But, Mr. Speaker, I encourage people to stand up for what is righteous and vote no on House Bill 2207, House Draft 2."

Representative Yamane then rose to speak in support of the bill, stating:

"Mr. Speaker, I will briefly speak on four major issues leading up to the reasons why I support House Bill 2207, House Draft 2.

"The issues involve Section 5(f) of the Admission Act of 1959; two, past uses of 5(f), lands for public purposes; three, the severe fiscal impact on the State due to the 20% charge to all State programs serving other land trust beneficiaries; four, trust responsibility of State legislators to the beneficiaries of 5(f) state land trust, which is the largest land trust in the State of Hawaii.

"In 1959, when Hawaii became a State, the U.S. Congress provided Hawaiian citizenry with nearly 2 million acres of land to be held in trust for the people of Hawaii. Congress provided all the western states with similar state trust lands when they were admitted into the union.

"In Hawaii, our 5(f) trust lands and the income and other proceeds from those lands must be used for only the following purposes: 1) for the support of public schools and other public educational institutions; 2) for the betterment of conditions of the native Hawaiian as defined by the Hawaiian Homes Commission Act of 1920, as amended; 3) for development of farm and home ownership on as wide spread a basis as possible; 4) for the making of public improvements; and 5) for the provision of lands for public use.

"It would be a breach of trust to use these lands for any other purposes. Under the 5(f), Hawaii could and did use these trust lands at no cost to the citizens to address many of our community needs, such as sites for our public hospitals, public schools, National Guard facilities, community colleges, highways, airports and harbors. It's being used as a sacred trust for the benefit of all the people of Hawaii.

"Also under section 5(f), the State held title to over 200,000 acres of lands, which were placed exclusively under the control of the Hawaiian Homes Commission. The 200,000 acres, exclusively for native Hawaiians, are the only parcels identified under section 5(f) specifically for a particular purpose. All other lands are held in a trust for all the people of Hawaii and for any of the other forestated purposes.

"In 1978, the people of Hawaii created the Office of Hawaiian Affairs -- OHA -- as part of its new Constitution. In 1980, Chapter 10, Hawaii Revised Statutes, was amended to provide OHA with 20% of all funds derived from the public land trust. Later, Act 304, Session Laws of 1990, sought to clarify the 20% issues by distinguishing between sovereign and proprietary rights.

"However, the fact of the matter is, Act 304, Session Laws of Hawaii 1990, did not clarify much. It seemed to have made the problem worse. It appears that the State had not been managing its public land trust effectively. Due to the ambiguities, fiscal impact, and the need to preserve the sovereign functions of the State, the minutes reported in HB 2207, HD 2, are badly needed for clarity.

"State agencies providing sovereign functions for the people of Hawaii should not be assessed the 20% by OHA since the State land trust is for all the people of Hawaii.

"Therefore as legislators and trustees of the 'State trust lands', it is incumbent upon us to support this measure and restore the trust for the purposes as intended by the U.S. Congress. The intention of Congress being that lands under 5(f) of the Admission Act are for the benefit of all the people of Hawaii, except for the lands under the Hawaiian Homes Commission Act of 1920, as amended, which were to be used exclusively for native Hawaiians.

"So, Mr. Speaker, we feel that programs supporting one purpose of the trust should not be charged 20% for other programs serving different purposes of the trust.

"Thank you, Mr. Speaker."

Representative Arakaki then rose to speak in opposition to the bill, stating:

"Mr. Speaker, aloha ahi ahi. I don't wish to take anything away from the Chair of the Hawaiian Affairs Committee in the effort and diligence that went into crafting this measure. Like the Hawaiian Settlement of Claims bill that we both worked on when I served as Chair, we can be sure that this bill is legally and logically sound.

"But I guess on a more personal level, Mr. Speaker, I need only to reference our State motto as a foundation for my opposition to this measure. Ua ma ke ea i ka aina i ka pono. Those words are emblazoned in our State seal. It reminds us that the life of our aina is preserved in pono, in righteousness.

"Hilina'i, in olelo Hawaii, is the word for trust. Ho'ohanohano, in olelo Hawaii is the word for honor. We are about to hemo (take away) that trust and honor we have as trustees of the Hawaiian people. In the name of a fiscal policy, we seek to redefine our trust obligations to the kanaka maoli.

"Mr. Speaker, unlike my colleague from the Leeward coast, I am not of the kanaka koko. I don't have a drop of Hawaiian blood, but to me it's not a matter of being pro-Hawaiian or anti-Hawaiian, it is a matter of doing what is pono, doing what our conscience tells us is right.

"And I also want to quote from the Bible. In Psalm 15 we are told that, 'in order to dwell in the Lord's sanctuary, we must walk in righteousness,' and keep our oaths even when it hurts. And yes, we are hurting economically, and it hurts to see large sums of money going to an agency that doesn't seem to do much to improve the conditions of our native Hawaiians.

"Still, we as honorable men and women -- lawmakers -- our word is our bond, our word is our honor, and it is all that we bring with us and it is all that we take with us. We are the promise makers, but we also need to be the promise keepers. Our vision of a sovereign entity of the kanaka maoli or the native Hawaiians must be fostered through a commitment of resources, a consistent stream of revenue that will allow for independence. As I said before, I have no doubt that the sovereign nation of Hawaii shall someday rise like a phoenix, from the ashes of over a hundred years ago.

"This resurrection shall be made possible by the restoration of a land base, the rejuvenation of a cultural pride, and the rebirth of olelo Hawaii, the native Hawaiian tongue. We cannot be shortsighted. If the Hawaiian nation is to be empowered to improve the shameful social and economic conditions of the native people, they must be able to build a trust corpus to do so.

"Enabling and allowing the native people to care for their own will someday free general revenues for the rest of Hawaii's people. There has been an acknowledgement and legal opinions on all levels of government -- international, national and local -- that the overthrow of the Hawaiian Kingdom was a wrongful taking.

"And while there is no expectation that the lands in the Kingdom of Hawaii shall be returned to the Hawaiian monarchy, there was certainly an expressed desired intent by this Legislature to better the conditions of the native Hawaiian, including, but not limited to, their housing, culture, health and well-being.

"For those of us who truly believe in self-determination and democratic principles, the watchword is ahunui, patience. A hundred years of wrong cannot be made pono in a few years or only when we have adequate revenues. Justice, not the State's fiscal crisis, must be the bottom line. I urge this Legislature, the Administration, the Office of Hawaiian Affairs and the beneficiaries submit to a process of ho'oponopono to come together in an agreement that all parties can agree to. That is the best way to achieve what is pono.

"Mahalo nui."

Representative Thielen then rose and stated:

"Thank you, Mr. Speaker. I'm rising to speak against House Bill 2207, House Draft 2. I would like to ask that the words of my colleague from upper Kailua be entered into the Journal as if they were my own," and the Chair "so ordered. (By reference only.)

Representative Thielen continued, saying:

"And I would just like to add a brief statement, if the members will turn to Section 12 of the bill, you'll find that there is a retroactive provision in the bill. So not only does the bill have all of the defects that has been so ably pointed out by some of my colleagues, it also would ban revenue retroactively received by OHA. That's really unprecedented, and I think it's disgraceful of this body to even consider that.

"Thank you."

Representative Moses then rose to speak against the bill, stating:

"For the sake of brevity, Mr. Speaker, I request that the words of Representatives Pendleton and Kahikina be entered in the Journal as if they were my own, except to note that I do not have a drop of Hawaiian blood," and the Chair "so ordered." (By reference only.)

Representative Moses continued, stating:

"In addition, I add only that a promise made must be a promise kept."

Representative Aiona then rose to speak in opposition to the bill, stating:

"Mr. Speaker, I'd first like to say that there is a provision in the bill which I do agree with, and that is a completion of a comprehensive inventory of the lands. But, Mr. Speaker, in good conscience, I cannot vote for a bill which continues the injustice to the Hawaiian people.

"Mr. Speaker, the Hawaiian people have waited far too long for their due justice and we as a government must address their concerns with a lot more passion. Mr. Speaker and fellow colleagues, what justice do the Hawaiians have? The Japanese Americans had their due justice with reparations. The women's movement championed the Equal Rights Amendment. The Blacks receive a civil rights bill. Disabled Americans were successful with their fight for ADA. And the American Indians achieved their rights through court action.

"Americans are living the American dream, but the Hawaiians are still fighting for the Hawaiian dream. This bill sends a signal to the Hawaiian people that we are doing something but it isn't enough.

"Mr. Speaker, I want to commend the Hawaiian Affairs and Finance Committee Chairs for their efforts in hearing this bill and trying to resolve the problem. I know this State has financial constraints. I know our budget is tight. We as a government promised 20% of the ceded land revenues and continuing the payment with no cap is only just. I'd like to encourage my colleagues to continue our efforts because much more needs to be done for the Hawaiian people.

"We as a government need to recognize the plight of the Hawaiians more seriously. How many more 24-hour vigils must take place? How many more people will die like George Helm? Fighting for the Hawaiians, trying to achieve their due justice. Mr. Speaker, as a freshman representative, I humbly join my colleagues with

anticipation to help solve the concerns of the Hawaiian people.

"Excluding certain revenues, in my opinion, is not right. There is more that needs to be done in House Bill 2207. Our people deserve more and the people we represent will continue to fight for more.

"Finally, Mr. Speaker, in the famous song, Kaulana Na Pua, there's a phrase I'd like to quote. It's a song capturing the movement for justice. (Quoted a song in Hawaiian) that translates to: 'We will not be laid to waste with the sums of money of the government.' The Hawaiian people are fighting for justice. Let's give them their due justice. (spoke Hawaiian)

"Mahalo."

Representative Say then rose and stated:

"Mr. Speaker, I rise to speak in support of House Bill 2207, House Draft 2, Relating to the Public Land Trust.

"This measure before us is of critical importance to the future of all of the people of our State. I would like to commend you, the members of this body, who also agreed with this view last year when we took similar action, despite the bill's failure to move in the Senate. So here we are again, Mr. Speaker, with House Bill 2207, which again represents our best efforts to bring closure to a series of ongoing disputes between the State and the Office of Hawaiian Affairs.

"What are these disputes? Let me briefly describe them. There is a dispute between OHA and the State government over the interpretation of Act 273 which we adopted in 1980, 17 years ago, Mr. Speaker. If I can recall in that particular conference, it was the former Representative Russell Sakamoto from Kailua/Waimanalo, and the present Governor and Senator Dennis O'Connor. This Act requires that twenty percent of revenue from the public land trust go to the Office of Hawaiian Affairs for the betterment of the conditions of native Hawaiians.

"In their deliberations of 1980, Mr. Speaker, there is no reflection of their discussion in regards to the agricultural lands that were tied to the special land and development fund of DLNR. There is nothing recorded in the committee reports or in the present statutes. But if I can recall, it was dealing with the sugar lands that were being leased out to our agricultural plantations.

"Specifically, OHA and the State disagreed on whether certain State revenues were subject to OHA's pro rata share. These disputes culminated in 1987 with the Hawaii Supreme Court ruling in the case entitled Trustees of the Office of Hawaiian Affairs vs. Yamasaki. The Hawaii Supreme Court found that it was up to the Legislature - not to the courts - to resolve these disputes.

"Following the Yamasaki case, the State and OHA made substantial efforts to resolve the questions regarding the revenues subject to the public land trust. These efforts resulted in Act 304 of 1990. Act 304 was an effort to clarify Act 273 to specify that those public land trust revenues derived from the 'actual' uses of public trust lands and which resulted in the State's exercise of what is 'proprietary,' as opposed to 'sovereign' functions, were subject to the sharing with OHA. And that was the measure we passed last year.

"Soon after the enactment of Act 304, and pursuant to that law, the State began transferring moneys to OHA in the amounts exceeding \$10 million in each fiscal year.

"Furthermore, Mr. Speaker, in 1993, the Legislature authorized payments to OHA of almost \$135 million to satisfy retroactive amounts which the State understood was due and owing to OHA, pursuant to Act 273, for the period 1981 through 1993. Today, the Office of Hawaiian Affairs has an aggregate of roughly \$240 million as a result of the 1993 lump-sum payment, the reinvestment of the dividends and interest, and of further annual State payments that have been made to OHA through the present.

"However, Mr. Speaker, despite the enactment of Act 304 and the 1993 lump-sum payment for past due amounts, the disputes between OHA and the State over various aspects of the public land trust have continued. In 1994, OHA filed a number of lawsuits against the State.

"In one case, which the Finance Committee has addressed in the past, OHA claimed that the State could not transfer lands in the public land trust to the Housing Finance and Development Corporation to complete public housing projects in Lahaina on Maui and Kealahou on the Big Island, Mr. Speaker, for public purpose, for all the general public. These were projects which the State had already invested millions of dollars in their improvements for these housing projects.

"In the other lawsuit, OHA has claimed that, pursuant to Act 304, it is entitled to a portion of rental housing, patient services which the Department of Health has not paid to OHA which includes the Hanapepe Health Center, the Hawaii State Hospital, Waimano Training School and Hospital, Hilo Medical Center, Ka'u Hospital, Kula Hospital, Samuel Mahelona Memorial Hospital, and interest income receipts as well as revenues from public activities or operations of our State's harbors and airports, including amounts based on duty-free operations that are not located on public trust lands. . .

At this point, Representative P. Oshiro rose and yielded his time to Representative Say.

Representative Say thanked the Chair and continued, stating:

"Mr. Speaker, I have a list of departments that are affected by this 20%. The Department of Agriculture, the Ag parks and the vacuum cooling facilities; Department of Accounting and General Services, parking control lots D, Q and Z3; DBEDT, the Foreign Trade Zone Pier 1; NALH, Hawaii Community Development Authority; DOE, rental school facilities; DLNR, Division of Boating and Ocean Recreation, Division of Land Management, and Division of State Parks. And last but not least, the biggest issue, Mr. Speaker and members of this body, DOT, the airports -- your landing fees, your terminal rent, your ground rent, and your concession revenues -- and the harbors.

"OHA has not claimed that it is owed a specific dollar amount. In its Committee Report on the prior draft of this bill, the House Hawaiian Affairs Committee suggested that OHA is claiming - at a minimum - in excess of \$100 million in principal back payment to 1980, plus accrued interest of approximately \$75 million.

"In pretrial rulings, Judge Heely of the First Circuit Court generally supported OHA's positions in both cases. Judge Heely's rulings not only exposed the State to a direct claim in the amount of possibly hundreds of millions of dollars, but, as elicited in testimony, could result in future claims in excess of \$1.15 billion, based on a presentation given by the Airlines Committee of Honolulu. It must be noted that in the pending lawsuit, Judge Heely specifically misinterpreted the scope and

applicability of the definition of 'revenues' adopted by Act 304 of 1990.

"In the land transfer case, Judge Heely's ruling has not only forestalled two vital housing projects, but also has brought into question the State's ability to transfer public lands for a public purpose.

"These claims by OHA, and the continuing uncertainty over whether other claims may be brought, have negatively impacted the State's ability to borrow money in the bond markets. State bond issuance statements now routinely describe the pending lawsuits as a matter of required disclosure to potential bond purchasers. The principal bond rating agencies have cited the lawsuits in their public comments. Any resulting downgrade in the State's bond rating may carry with it higher interest payments which could worsen the State's already fragile financial condition. As your Finance Chairman, Mr. Speaker, this really worries me.

"The transfer of moneys from the Airport Revenue Fund to OHA also jeopardizes the financing and operations of the State's airports. Last year, the Inspector General of the U.S. Department of Transportation claimed that the State's payments to OHA from revenues generated by airport operations constituted an illegal diversion of airport revenues for non-airport purposes under federal law.

"The Inspector General has recommended that the U.S. Department of Transportation require a State reimbursement to the Airport Revenue Fund for more than \$28 million in prior payments to OHA and lost interest. We risk losing tens of millions of dollars in future federal airport funding if this is not properly addressed. Pending a resolution of this matter, the Governor has put into escrow those airport fund revenues which otherwise would be paid to OHA.

"Until these disputes between the Office of Hawaiian Affairs and the State are finally resolved, the uncertainties they have created are harmful to OHA, to the State government, and for me, Mr. Speaker, to all of the people of the State of Hawaii.

"It is harmful to OHA because the lack of a predictable revenue stream prevents realistic planning and delivery of services to its beneficiaries and it also hinders OHA's own bond issuances and other financial efforts in the future. It is harmful to the State for similar reasons. Ultimately, it is harmful to all of the people of the State of Hawaii.

"These issues have been haunting us for more than a decade. These disputes are harmful to all of us not only because of their adverse financial effects, but more importantly, because they sow the seeds of divisiveness and distrust in our community.

"As the elected representatives of the people of this State, we have a duty to all of the people we represent to assist in bringing about a resolution of these matters. We have a duty to take action to assist both the Office of Hawaiian Affairs and the State to move beyond these disputes and to focus instead on our missions.

"The bill before us today represents exactly that. It reflects the input of OHA's trustees and staff who participated at our public hearings. . .

At this point, Representative Garcia rose and yielded his time to Representative Say.

Representative Say thanked the Chair and continued, stating:

"I would like to take this opportunity to thank the trustees and staff for their openness and willingness to work together toward a common goal.

"So, Mr. Speaker, at this point, if I may, I would like to highlight what I think are the main points of this bill.

"First, it would require the development of a detailed, comprehensive inventory of lands comprising the public land trust. And we have started, members, when we decided to give OHA a lump-sum of \$135 million and the reflected departments that are reflected in the Department of Budget and Finance's testimony.

"Second, it would place a moratorium on most conveyances of public land trust to preserve the land corpus.

"Third, it would clarify the revenues subject to the public land trust and subject to OHA's pro rata share to address problems that have resulted from current ambiguity in the present law that we have.

"Fourth, it would clarify the process by which funds are to be transferred from the State to OHA.

"Fifth, it would establish a Public Land Trust Committee to consider and make recommendations to this body to improve the administration of the public land trust; and

"Sixth, it would assure the Office of Hawaiian Affairs a steady stream of income from the public land trust with which to satisfy its obligations to its native Hawaiian beneficiaries. OHA would be guaranteed \$15.1 million in revenues annually from the public land trust. This amount is comparable to the amount which OHA has been receiving to date, so we are not taking anything away.

"Mr. Speaker, because of my concern over these disputes and the fiscal solvency of this State, some have characterized me as being anti-Hawaiian or anti-OHA. Three years ago, I stood before this body and introduced a measure to bring it for public discussion on a measure, whereby OHA should have matched the State of Hawaii 20% of all capital improvement projects that were of proprietary nature. I got shot down.

"Last year, Mr. Speaker and members, thanks to you, giving me the opportunity of being the Finance Chair, I also introduced another bill asking for the suspension of the payments for five years in trying to balance the budget, recognizing that their trust fund had a great deal of money. I cannot begin to tell you how untrue and hurtful those allegations are to me, Mr. Speaker.

"I had a lot of friends -- native Hawaiians throughout the State -- when I first started off as the Culture and the Arts Chair as a freshman. If people are going to characterize me as being anti-Hawaiian or anti-OHA, I am not. I am here to bring this to the table for all of us to discuss on behalf of all the people of the State of Hawaii -- native Hawaiians and non-native Hawaiians.

"It is my firm belief that if we do not act, the harmful economic effects on the Office of Hawaiian Affairs, its beneficiaries, and the State of Hawaii may create further divisiveness and distrust in our community. And I think most Hawaiians would want to agree with me.

"As elected officials, Mr. Speaker, we have a moral and fiduciary obligation to do what we can do to resolve these issues. Ultimately, I strongly believe that this bill will help to bring all of us together, not split us apart.

"Thank you."

Representative Kawanakoa then rose and stated:

"Thank you, Mr. Speaker. I stand in strong opposition to this measure. I also take offense to the prior speaker's couching of this issue as if the problems confronting our State are the Hawaiians and our Office of Hawaiian Affairs.

"I ask this body what have Hawaiians done? I guess they relinquished some 1.8 million acres of land in the illegal overthrow of 1893 and have suffered ever since. I ask the members of this body not to couch or otherwise depict the Office of Hawaiian Affairs as improperly bringing actions or otherwise improperly trying to hold the State accountable for its promise to the Hawaiian people. Instead, they are fulfilling their fiduciary duty, and I would expect no less from us as trustees of the public lands trust.

"In that matter, I find it offensive that we otherwise put a kind and friendly people, the people who have offered so much to all of us, to put them in the line of fire as if this was their fault. All the Hawaiian people are asking for is their due share. What would be appropriate? What is fair? I think this body has determined what is fair. The courts have attempted to interpret that fairness and now we are trying to retroactively go back and reinterpret the law, Act 304, to suit our purposes because we're in financial distress, because our interest as non-Hawaiians will be affected.

"I submit that none of these problems are the Hawaiians' fault, and they should not be blamed for these problems. And that this bill should fall flat and not continue to the Senate, and that we should find other means by which to rectify the disputes. It was mentioned earlier, with regard to furthering negotiations, I should remind this body that it was the executive, it was the State of Hawaii, that pulled out of the negotiations with the Office of Hawaiian Affairs, necessitating their motion, necessitating their litigation through the courts.

"The Hawaiian people have done justice to their cause, to their desire to have fairness within their own land, and now it is time for us to do justice. Mr. Speaker, at the appropriate time I'll be calling for a roll call so that all of us can be registered with the Clerk and with this House as to our position with regard to fairness to the Hawaiian people."

The Chair then stated:

"Again, my instructions to the Minority. If you're going to call a roll call, please call after all debate is complete."

Representative Ward then stated:

"I believe that's what the speaker said actually. He said at the end."

Representative Kawanakoa then rose on a "point of order," and stated:

"I believe my request was that at the appropriate time, I be given leave to request a roll call."

The Chair thanked Representative Kawanakoa and stated:

"You certainly will. Please continue with the debate."

Representative Ward then rose and stated:

"Mr. Speaker, I rise in opposition to this measure. In particular, as we get close to the vote, Mr. Speaker, all of those who will vote yes on this bill have to ask themselves: Why are we voting for this bill? Why do we want to alienate 20% of the people of this State? Why do we want to have a fractious occurrence, for what now is before us?

"But then we have to ask ourselves, why did two years ago we said: OHA, you're going to have a 20% surcharge or we're going to charge 20% on everything that we build. Every CIP is going to have a 20% surcharge to it. Or why did last year the Governor come to the Finance Committee and personally testify to suspend the payments to the Hawaiian office?

"Does it have anything to do with what's happened in the State for the last few years in terms of our overspending, the deficit spending that we happen to have? The jobs that we've lost or, in the words of one of the prominent Hawaiians even saying in the Finance Committee: 'Don't blame the sad state of the treasury and the state of the economy on the Hawaiians. Don't put the burden on our backs.'

"Why are we doing this now, Mr. Speaker? Well, let's be logical. Why did we earlier today raid the pension fund? The health fund? The highway fund? We took away benefits from the disabled, from the Hansen's disease patients. Why did we do that today?"

At this time, Representative Say rose on a point of order and asked Representative Ward to "confine your remarks to the measure before us."

Representative Say then stated:

"Mr. Speaker, for the record and for the members of this House, this measure does not address our financial plan."

Representative Ward continued, stating:

"Here we can have a real good debate."

The Chair then asked Representative Ward to "confine your remarks to the measure or you'll be called out of order."

Representative Ward continued, stating:

"I'm trying to address what really Representative Case brought out, that this measure be looked at objectively, and what I'm saying is, look at the motivation behind this issue. Don't get clouded up in what seems to be very cerebral, factual, even if we have to take the facts into consideration. Don't let them be technically twisted to miss what the motivation is, Mr. Speaker.

"That's what my point is here, that those things that have been done systematically, see that there are funds, that there is a surplus, if you will, in those particular areas and they are being preyed upon right now. When times are tough, Mr. Speaker, you don't feed on your weakest and most vulnerable. You shoulder them until the storm subsides and that's what we can do if we wait and inventory these lands so that we can get systematic, so we can get objective, so we can say, here is the land and here is the amounts. But in the meantime, let's leave the Hawaiians alone and let's leave the 20% as it is.

"Mr. Speaker, I submit to you that this is not about money. It's about the lives and spirit of 20% of our people. And this is not the way we should proceed with this. This bill should die."

Representative Morigara then rose in support of the bill and asked the Clerk to register an aye with reservations, and the Chair "so ordered."

Representative Goodenow then rose and stated:

"I'd like to speak in support of this measure with serious reservations. First, I'd like to start on some of the reasons why I do support this measure. I think it's correct that we look back in history and we look to the time of the overthrow of the monarchy and who received those lands and who was responsible for the overthrow. Not the State of Hawaii. It didn't exist at that time.

"You know I find it hard to see why the burden, this burden of helping the Hawaiians, help that they definitely need, should be placed on us. A small state of only one million people. I think the U.S. government should, like the State did, look at waiving sovereign immunity, looking forward as the Hawaiians move forward in their movement towards sovereignty.

"You know, we're almost in a position where the most vulnerable and the most in need of our society are placed at fighting each other. The people that need the community hospitals, those in housing programs are coming into conflict with Hawaiians. And I don't think this is really, you know when you think of our State and the aloha spirit, the spirit we should have for helping each other, why should we not look towards looking at the federal government. Because I think in time as sovereignty advances too, the whole question of ceded lands may take a different view.

"This measure allows for funding of OHA at a rate that is over twice what they are receiving now. As the process moves forward, this will give OHA money for their programs. And then as we do look towards sovereignty, you can see that there will have to be an agreement at that time as to what the Hawaiian people wish to do.

"What about, for instance, immigrants that came here during the Kingdom of Hawaii, whose descendants are here today? Certainly are they to blame, to pay, for the settlement now? How about people who came here due to the U.S. immigration laws now, new immigrants. You know, I believe that the Hawaiians do need help and I believe they are due benefits and things that were taken away from them. However, I have a very big problem with just our State being responsible. Our State already, in recent years, provided a great deal of support and benefit, and I hope that the State will work together with Hawaiians and Hawaiians will work together with our State at looking towards the final solution.

"This is just to stop the litigation problems we have now and supply money to OHA. Let's look at the big picture, the final picture, and not get caught up on this measure.

"Thank you."

Representative Kanoho then rose and stated:

"Thank you, Mr. Speaker. It's extremely difficult for me to rise and to indicate my yes vote, albeit with extremely grave reservations. I have some remarks for inclusion in the Journal, but I would like to briefly comment," (and the Chair "so ordered").

"Mr. Speaker and members, as with all of you I have anguished on this measure, trying to determine just how I would vote. As I awakened this morning, HB 2207 came immediately to mind and I took my pillow and covered my head and wanted to remain that way for the entire day.

"My initial vote was for a no vote to indicate support for the Hawaiian people and their representatives. And I would like to express my appreciation for those who have voted no in support of the Hawaiian people. However, I've decided to vote yes because this is a measure that we need to use to address some of the concerns and some of the problems and the issues that we face.

"As has been mentioned previously, we need to fulfill the intent of this bill which was to take a land inventory and an assessment of its values and revenues to form a task force to address those problems and disputes and questions, and recommend resolutions to the Legislature. And we do need to rectify the revenue source in the bill. Although it does indicate \$15.1 million and \$3.775 million on a quarterly basis, because this bill excludes certain revenues which were normally given to OHA, my calculation indicates that the quarterly transfer of funds will probably only amount to \$758,000.

"I have deep reservations because this bill also reaches conclusions which appear to contradict prior contract agreements effectuated by law and would exclude those revenues which I mentioned. To put all of this into perspective, Mr. Speaker and members, I'd like to tell you a short story.

"Over a hundred years ago, Mike White owned an island in the middle of a big ocean. It was truly a beautiful place -- fertile plains, lush valleys, green hills and mountains, white sandy beaches, abundant ocean resources. He and his people were real stewards of this land because they took all nature, they took land and the ocean and everything in and on it as being very sacred.

"All who visited his island were greeted with warmth and aloha. Then I came along and I liked what I saw. And because I felt that if I didn't do it somebody else would, I put a gun to his head and said, sorry pal, I'm taking over. Well, actually I didn't say sorry, not then, a hundred years later I did. And so I put in place a government, disposed his, and put in place my own form of government. After about 20 years, after some coaxing, I finally told Mike and his people that I would give them some land on which they could live.

"Mike's total island consisted of about 4 million acres, so I give him a little over 200,000 for him to use. And I even said, because I wasn't that bad of a guy, that I would make it possible for him to use and access it, put water and infrastructure, but unfortunately, I didn't live up to that promise. That was 20 years after I initially put the gun to his head.

"About 39 years after that, we changed the form of government a little bit, and I reconfirmed my obligation to him. But again, not much happened until Mike and his people. . .

At this point, Representative White rose and yielded his time to Representative Kanoho.

Representative Kanoho thanked the Chair and continued, stating:

"Until Mike and his people pleaded and demonstrated and then we came to some agreement about 21 years after that and we said, of all the lands that you own Mr. Mike, we're going to give you 20% of the revenues. Well, that also didn't come to pass and Mike and his people decided to file suit against me a few years after that.

"The courts didn't know quite what to do with that suit and said you guys go back and settle it yourselves and so we did and we came to some agreement. We settled,

agreed on a payment plan and that was actually put into law. However, a few years later, I told Mike that I couldn't do that anymore. The revenue that I had promised him would not be forthcoming. And Mike said, well that's not fair, you promised.

"And so it is, Mr. Speaker, as this bill continues through the legislative process, I would hope that we would inject into it justice and righteousness and that we would see fit to fulfill our obligation. I need to explain to our Hawaiian people that I take obligations as their representative very seriously. And I haven't told this to anyone before, but every time that we sing Hawaii Aloha, I cannot sing it through completely because I think about the Hawaiian people. Every time I hear about a song of the aina, I get a little bit choked up. Last week, all of us can remember the drums and the chanting and that was very impressive and I shed a lot of tears thinking about the injustices of the past.

"So as I rise in speaking for this bill, it is the intent that we would fulfill the initial purpose of this bill and come to some mutually agreeable resolution. And I say that if we are unable to do that, that I will do everything in my power to subsequently defeat this measure.

"Thank you very much, Mr. Speaker."

Representative Suzuki then rose to speak in favor of the bill, stating:

"Mr. Speaker, rather than recite the facts that my Chair has ably done, I would like to share my reflections, serving as Vice Chair in the Hawaiian Affairs Committee. In that Committee, we heard all the testimony for this bill and as a member of Finance, again heard the bill on second referral.

"And in separate meetings with OHA, I still stand in support of this bill. In mind and heart this bill is the best workable solution that has thus far been proposed to address the merit of legal, financial and fiduciary problems facing the State and facing OHA.

"It is not conceivable from my perspective, that had the Legislature known before enacting Act 304 in 1990, that they would have the problems facing the State and OHA today, would they have proceeded to pass Act 304? I believe it is our moral duty and prerogative as legislators, given the current understanding of the myriad of problems, that we must correct this lack of foresight through this bill.

"This bill allows the State, in its comprehensive financial statements prepared by DAGS, and in our prospective disclosures for our bond financing underwriting, to be able to report that there are no contingent liabilities for those functions, now classified in this bill as sovereign functions, for the State of Hawaii. This will eliminate a burdensome and damaging contingent liability disclosure requirement in these financial reports as we move forward, working to other solutions specified in the bill.

"Thank you, Mr. Speaker."

Representative Ahu Isa then rose and stated:

"Mr. Speaker, I rise to speak with serious and strong reservation on this bill. I would feel remiss if I did not stand and explain why I will be voting with reservations, although I previously stated to my constituents that I would vote aole on the bill. My heart is heavy and torn this evening because I know how important this issue is to our Hawaiian people. My grandmother was pure Hawaiian and my grandfather was half, and I witnessed

their land being taken away from them in Kalihi because they had no written deed, no paper.

"Compensation was promised them but nothing was given, and so I see them suffer. I recognize that my colleague from Manoa has worked long and hard on this bill and I also want to thank my Hawaiian brother from Nanakuli for his statements but, Mr. Speaker, when one makes a promise, one should keep that promise as best as he or she can.

"The Hawaiian people are trusting people, loving and very generous and these should be considered assets, but in business it seems like these are liabilities. Mr. Speaker, I know the way that this bill is written goes against what OHA and many others believe. And yet without it we would not have a vehicle, whereby the cloud that hangs over the statutory definition of ceded lands can be removed. This bill, in its present form, is far from becoming law. It has a long way to go yet and it is the shell that we have to work with. So I feel we need this to reinstate the original intent and to give OHA their rightful due. So, Mr. Speaker, please register my strong and serious reservations.

"Thank you."

Representative Morita then rose in opposition to the bill, stating:

"Mr. Speaker, as my colleague before me so eloquently put it, many of us who are Hawaiians here tonight have serious and deep reservations about this bill and we are being put in a very difficult position. But for myself, I have to vote no.

"There are no words that can describe this feeling, it comes from my na'au and I can empathize with my fellow Hawaiian colleagues that the anguish that we are going through in trying to resolve this matter. My utmost respect to the Chair of the Hawaiian Affairs Committee and Chair of the Finance Committee in taking into consideration, laboring over this point and putting much effort into this bill."

Representative Kawakami then rose and stated:

"Mr. Speaker, I will support the bill with reservations. I would like to say that I do support the Chair of the Finance Committee and the Chair of the Hawaiian Affairs Committee. And I would like to just quote some of the things I had and ask that the rest be put in the Journal," (and the Chair "so ordered").

"Mr Speaker and members, Ua mau ke ea o ka aina i ka pono. And that is our State motto -- the life of our land is preserved in righteousness. And in western thought, the emphasis would be on the word righteousness. Such a common belief would be that the affairs of the State of Hawaii would be run well when our government and the people it serves lives righteously. But this sentence came out under very different circumstances and from a world view very different from the western thought and ideals.

"And many of you may not know, the speaker of these words was King Kamehameha III, near the succession of the Kingdom of Hawaii to Great Britain and the return of the lands by Admiral Thomas, back to the monarchy on July 31, 1843. Kamehameha III had reestablished his relationship to the land when he pronounced those words and the emphasis was on the word 'ke ea o ka aina,' the life force of the land. And what he meant was the life of the land continues because proper order had been reestablished, because things again were as it should be. And if we are to say that this is truly our State motto,

then we must put things into the proper order and only then will the life of the land live on.

"And it is with that hope that I feel that we can come together and we must come together to make things pono. Thank you, Mr. Speaker."

Representative Kawakami's additional remarks are as follows:

"Mr. Speaker, I rise to speak in favor but with strong reservations on H.B. 2207, HD 2, which proposes to resolve the issue of the public land trust and differentiate between proprietary activities and sovereign functions.

"It has been repeated often that Judge Heely's ruling was not guided by a proper interpretation of the legislative intent behind Act 304, which established the current income source of OHA. However, the State of Hawaii does not 'own' these lands. It merely holds them as a public trust.

"Whatever the legislative intent behind Act 304, it should not be taken by itself. In our search for guidance on this issue, we should also look to the so-called Aloha Spirit Law passed in 1986 which directly refers to the 'life force' and the 'aloha spirit' in the exercise of power by the State in fulfilling its responsibilities on behalf of the people. It is even more appropriate to apply this law to issues related to the betterment of Native Hawaiians.

"'Ua mau ke ea o ka'aina i ka pono.' That is our State motto. 'The life of the land is perpetuated in righteousness.' In Western thought, the emphasis would be on the word 'righteousness,' such that a common belief would be that the affairs of the State of Hawaii run well when the government and the people it serves live righteously. But this sentence came about under different circumstances, and from a world view very different from Western thought and ideals.

"The speaker of those words was King Kamehameha III, after the cession of the Kingdom of Hawaii to Britain and the return of the lands by Admiral Thomas back to the monarchy on July 31, 1843. Kamehameha III had reestablished his relationship to the land. When he pronounced those words, the emphasis was on 'ke ea o ka'aina,' the life force of the land. What he meant was that the life of the land continues, because proper order had been reestablished. Because things were again as they should be.

"If we are to say this is truly our State motto, then we must put things into their proper order - only then will the life of the land live on. It is with this hope that I feel we can come together to make things pono.

"Thank you, Mr. Speaker."

At this time, Representative Kawanakoa requested a roll call vote.

The request for a roll call vote was put to vote by the Chair and upon a show of hands, the request was granted.

Roll call having been requested, the motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2207, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC LAND TRUST," passed Third Reading on the following showing of Ayes, Noes and Excused:

Ayes, 31: Representatives Abinsay (kanalua), Ahu Isa (kanalua), Cachola, Case, Chang, Garcia (kanalua), Goodenow (kanalua), Herkes (kanalua), Hiraki

(kanalua), Ito, Jones (kanalua), Kanoho (kanalua), Kawakami (kanalua), Lee, Marumoto (kanalua), Menor, Morihara (kanalua), Nakasone, Okamura, M. Oshiro (kanalua), P. Oshiro, Say, Stegmaier, Suzuki, Takamine, Tom, White (kanalua), Yamane, Yonamine, Yoshinaga and Souki.

Noes, 20: Representatives Aiona, Arakaki, Fox, Halford, Hamakawa, Kahikina, Kawanakoa, McDermott, Meyer, Morita, Moses, Pendleton, Saiki, Santiago, Takai, Takumi Tarnas, Thielen, Ward and Whalen.

Excused, None.

The Chair directed the Clerk to note that H.B. No. 2207 had passed Third Reading at 8:37 o'clock p.m.

Stand. Com. Rep. No. 1091 and H.B. No. 1857, HD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1857, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Case rose and stated:

"I rise in support of this measure. Mr. Speaker, this is another difficult, controversial, emotional bill, and again, as difficult as it is, I need to lay out the facts, as I understand them.

"In 1991, the Legislature passed Act 323, which provided a mechanism for the resolution of what are referred to as individual claims against the State by beneficiaries of the Hawaiian Home Lands trust. That Act was entered into as a result of a process that was begun in 1988 and culminated in 1991 with a report by the Governor's office on an action plan to address controversies under that trust and the public land trust.

"Many of the actions that we have taken over the last few years have come out of that process. Regarding the Hawaiian Home Lands trust, one recommendation was to address prior individual claims, and there was a notation that elsewhere were recommendations relating to general homestead program administration. The bill that we enacted as a result of that recommendation, did set up a process for addressing claims through an individual panel, and, subsequently, if a beneficiary was not satisfied with the panel's recommendation, then that beneficiary had to resort to court.

"During the testimony on that bill the issue arose as to the ability of individual beneficiaries to bring class suits. Amendments to that effect were requested not incorporated, and we went forward with the process.

"The original time frame called for claims to be brought by 1993 for evaluation by the panel and submission to the legislature by 1994. It does not appear that a great number of claims were anticipated. That process was extended a number of times, and ultimately the panel was directed to provide a report to the Legislature by the end of 1996, which the panel did.

"That report brought to the legislature 65 claims valued at roughly \$6.8 million, for an average of somewhere around \$40,000 a claim. It reported, however, that there were 3,500 claims outstanding, and asked for two years to complete its work and resolve those claims.

"Those claims consisted of two categories. One were "pure" individual claims which related to individual wrong doings by employees of the Department of Hawaiian Home Lands. Lost applications;

mischaracterizations of applicants; basic mistakes or errors on the part of individual employees. The second and larger category related to claims having to do with the waiting list. The waiting list claims basically alleged general mismanagement of the Department of Hawaiian Home Lands which resulted in people having to stay on the waiting list for a long time; failures of the DHHL to ask the Legislature for money; failures of the DHHL in general to improve the lands at an adequate pace.

"The options presented to your Committee were difficult; there were no easy answers. One option was to do nothing. If the Committee had done nothing, this bill would have failed and the process would have failed because the panel technically no longer exists. All that's on submission is a report. Your panel did not feel that, that was the right approach. And the failure to pass a bill tonight, at least on the House side, would endanger the overall process of resolution.

"Another option your Committee considered was to recommend funding the \$6.8 million and extend the panel for two years. The problem with doing that was that the \$6.8 million encompassed not only claims which your Committee clearly felt were encompassed within Chapter 674, but also claims which your Committee felt were not encompassed within Chapter 674, those being the waiting list claims. And the difficulty with that option would be that we would then fund \$6.8 million, partly waiting list, partly non-waiting list, and basically tell the panel. Bring back the rest of them and face the prospect in the future of turning down further waiting list claims after expectations had been heightened.

"A third alternative was to not fund the \$6.8 million and simply extend. We did not believe that that was the correct approach either, because again it gave heightened expectations.

"And the fourth alternative, which your Committee chose to recommend, was to clarify various outstanding issues having to do with the individual claims now. Even though difficult, we concluded that it was better to do it now than later, and that is the bill we've brought to you.

"I should also note that this recommendation was made in the context of the act that we passed two years ago in 1995 in which we settled DHHL-related claims. The language was broad for that bill, and I need to read briefly what I read to the Finance and Judiciary Committees this year. This is straight out of Act 14 from 1995: 'The passage of this Act is in full satisfaction and resolution of all controversies at law and in equity, known or unknown, now existing or hereafter arising, established or inchoate, arising out of or in any way connected with the management, administration, supervision of the trust, or disposition by the State or any government agency of any lands or interest in land which are or were alleged to have been Hawaiian Home Lands' between 1959 and 1988, excepting again the 674 claims.

"Your Committee felt that that was incorporative of the waiting list claims. This is obviously the most controversial and difficult part of your Committee's recommendation, but we feel it is the proper one and so we urge this body's support of this bill.

"Thank you."

Representative Kawanakoa then rose to speak in opposition to the bill, stating:

"Mr. Speaker, I understand the concerns which confronted the Chair of the Hawaiian Affairs Committee, but I voted no in Committee with regard to this measure and I will continue to do so because I think it again

unfairly treats the people. The Hawaiian people, the people on the waiting list, the people who have applied through the panel process have gone through the procedure, and in the twelfth hour we pull the carpet from underneath them. Again, I understand the dilemma that our Chair is confronting with regard to his interpretation of the law.

"However, when I look back to 674-16, the waiver of immunity, if we look in HRS, it states: 'The State waives its immunity from liability for actual damages suffered by an individual beneficiary arising out of or resulting from a breach of trust or fiduciary duty, which occurred between 1959 and 1988 and was caused by an act or omission of an employee of the State, in the management, and disposition of the trust resources.' Sounds to me like pretty clear language that we were looking at any sort of act or omission to act in the management of the trust assets.

"Now the way I read sovereign immunity, the waiver of sovereign immunity, is that it is whole it is complete, unless it is otherwise stated to restrict that waiver. There's no restrictive language here. It's with regard to any case, any judiciable case that could be brought forward under the concept of breach of trust doctrines. That I believe is what the panel has reviewed and has considered to be a breach of trust, as far as the mismanagement of the DHHL properties and otherwise not getting or not allowing these beneficiaries to get off of the waiting list. These are the claims that are before us.

"I think it's quite unfair, we know much of the gallery has now left and the Office of Hawaiian Affairs has a lot of support, has a lot of political clout. It has money, it has the resources to otherwise get out and lobby many of the legislators. I am speaking on behalf of the beneficiaries, of the people who will be affected. The 3,000, perhaps 3,000 claims that will now be wiped off this list. These are ordinary people, they are Hawaiian people. I earnestly believe that they don't have the resources to properly lobby this body and so I speak on behalf of them for they have spoken to me.

"I think it's egregious that we go back and break another promise, this in succession to the prior bill that just passed. Another, as I guess it was noted, a redefining or otherwise clarifying a promise that was so eloquently depicted through a story, through the island of Michael White. I believe that this body knows what is correct and that this issue should continue forward. So we have complete and full resolution and I would also mention a final point at this time with regard to the \$600 million settlement and what the Representative from Manoa has just read to us from, I guess our HRS or with regard to Act 14. That this disclaiming language is an all pervasive disclaimer an all inclusive disclaimer with regard to all claims. I believe that was with regard to the claimant being the Department of Hawaiian Home Lands. We may have made the Department of Hawaiian Home Lands full and complete with regard to the \$600 million settlement, but we have not made the individuals whole, the people who were hurt, the people who were on the waiting list. They have not been made whole by the breaches of trust from the Department of Hawaiian Home Lands towards these claimants, these beneficiaries.

"For those reasons, I will be voting no on this measure, but more importantly, as has also been mentioned that something needs to move forward otherwise the panel will otherwise be dismissed. We will only have a report, we will now have a finalization of the claims that are still pending and in that matter, Mr. Speaker, I offer an amendment to otherwise take back this bill 1857 to its original state, as it was originally introduced and I

believe that amendment is before the members of this body."

At this time, Representative Kawanakoa offered the following amendment to H.B. No. 1857, HD 1:

"SECTION 1. House Bill No. 1857 H.D. 1 is amended by deleting sections 1 through 9, page 1, line 1 through page 6, line 9 of H.D. 1 and replacing them with the following sections 1 through 7, to read:

'SECTION 1. Section 674-1, Hawaii Revised Statutes, is amended to read as follows:

'§ 674-1 Purpose. The purpose of this chapter is to establish a process under which individual beneficiaries under the Hawaiian home lands trust may resolve claims for actual damages arising out of or resulting from a breach of trust, which occurred between August 21, 1959, and June 30, 1988, and was caused by an act or omission of an employee of the State in the management and disposition of trust resources:

(1) By establishing a Hawaiian home lands trust individual claims review panel which shall:

(A) Receive, review, and evaluate the merits of an individual beneficiary's claim;

(B) Render findings and issue an advisory opinion regarding the merits of each claim filed with the panel, including an estimate of the probable award of actual damages or recommended corrective action that may be implemented to resolve each claim;

(C) Prepare and transmit a report to the governor and legislature, at least twenty days prior to the convening of each regular legislative session, and a final report, at least twenty days prior to the convening of the [1997] 1999 regular legislative session, on the activities of the panel including a summary of each claim brought before the panel, the panel's findings and advisory opinion regarding the merits of each claim, and an estimate of the probable compensation or any recommended corrective action for legislative action'

(D) Disburse any compensation awarded by the legislature in regular session or undertake other actions as provided by law which are acceptable to a claimant; and

(2) By providing an individual beneficiary claimant the right to bring an action to recover actual damages for a breach of trust, in the circuit courts of the State of Hawaii, if the action taken by the legislature in regular session on each claim brought before the panel is not acceptable to an individual beneficiary claimant.

SECTION 2. Section 674-4, Hawaii Revised Statutes, is amended to read as follows:

§674-4 Tenure and compensation of members. The term of office of each member of the panel shall be until December 30, [1997.] 1999. Any member appointed to fill a vacancy shall be appointed by the governor for the remainder of the term. A vacancy in the panel shall not affect its powers.

Each member of the panel shall be compensated at the rate of \$100 per day for each day's actual attendance to the member's duties; provided that the compensation shall not exceed a maximum of \$10,000 per year. The members of the panel shall be paid their necessary traveling and subsistence expenses incurred in the discharge of their duties. Expenses incurred under this section shall be paid by the department of commerce and consumer affairs.

SECTION 3. Section 674-14, Hawaii Revised Statutes, is amended to read as follows:

§674-14 Annual report. The panel shall prepare a report to be transmitted to the governor and to the legislature, at least twenty days prior to the convening of each regular legislative session, and a final report to be transmitted to the governor and to the legislature, at least twenty days prior to the convening of the [1997] 1999 regular legislative session, which summarizes its activities in furtherance of this chapter, and shall include a summary of each claim brought before the panel, the panel's findings and advisory opinion regarding the merits of each claim, and an estimate of the probable compensation or recommended corrective action by the State, for action by the legislature in regular session.

SECTION 4. Section 674-17, Hawaii Revised Statutes, is amended to read as follows:

§674-14 Right to sue, individual claims. (a) An aggrieved individual claimant shall have the right to bring an action, in accordance with this part, in the circuit courts of the State for recovery of actual damages suffered by the claimant arising out of or resulting from a breach of trust which occurred between August 21, 1959, to June 30, 1988; provided that no action shall be filed until after October 1, [1997.] 1999.

(b) "Aggrieved individual claimant", as used in this section, means an individual claimant whose claim was reviewed by the panel under this chapter and who has filed, no later than October 1, [1997.] 1999, a written notice with the panel that the claimant does not accept the action taken by the legislature in regular session upon the claim. Any claimant who fails to file a written notice rejecting the action of the legislature upon the claim shall be deemed to have accepted the action taken by the legislature.

SECTION 5. Section 674-19, Hawaii Revised Statutes, is amended to read as follows:

§674-19 Limitation on actions. Every claim cognizable under this part shall forever be barred unless the action is commenced by September 30, [1998.] 2000.

SECTION 6. Statutory material to be repealed is bracketed. New Statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval."

Representative Kawanakoa moved that the amendment be adopted, seconded by Representative Thielen.

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

"Mr. Speaker, like in Representative Kanohe's story, someone once said that we promise according to our hopes, but perform according to our fears. This amendment allows us to hold to our hopes. We made a promise to the Hawaiian people that had everything to do with hope, but I think we need to put aside our fears and refuse on this floor to go back on our oath. As the great Thomas Becket said: 'When a man takes an oath he's holding his own self in his hands like water and if he opens his fingers then he needn't hope to find himself again.'

"Mr. Speaker, by going back to the original language, I think we short-circuit some of the things that we're trying to get out of, some of the obligations that we have

made, some of the promises that we've put for years and decades to rebuild a people and particularly those who've waited for 40 and 50 years on the waiting list to not hear the final 3,000 on that waiting list, I think is an egregious error. Having said that, Mr. Speaker, setting right what we have wronged at each step, small however it is, this is the big thing of getting back, and what we have given as our word and keeping it. There is only one profession left in Hawaii that does that. It used to be the business community but now when we, who are elected, give our word and we break it, what is there left to believe about us?"

Representative Thielen then rose to speak in favor of the amendment, stating:

"Mr. Speaker, the amendment will serve to keep the issue alive until the year 2000 and without it, as the Chair of the Hawaiian Affairs Committee has said, the panel would be finished, claims would be finished. We can't leave it in that state, but we don't have to go ahead with the proposed House Draft 1. We can go back to the original version.

"You know what's basically at issue here, Mr. Speaker, is money. I sat in on the Judiciary, I'm a member of the Judiciary Committee so I was there at the combined hearing, Judiciary and Finance. The Finance Chair said that specifically, 'that the Legislature didn't realize the number of claims and those that. . .

At this time, Representative M. Oshiro rose on a point of order and asked:

"Is this on the amendment or the bill?"

Representative Thielen responded:

"I'm speaking to the bill and why we should go with the amendment."

The Chair then said:

"She's giving some background. Please speak on the amendment."

Representative Thielen continued, stating:

"The reason that we need to have the amendment is that the basic argument in favor of the version that is before us today in the order of the day was financial. So by dealing with the amendment, I can do the argument now or I can wait until we deal with the bill on the order of the day. But it is so intertwined, that I think it makes sense and it would be shorter if I do it just once. So if I may have the leave of the Speaker, it's very intertwined."

Representative Say then rose and stated:

"I didn't realize that the Legislature didn't realize."

The Chair then asked Representative Thielen "to speak on the merits of the amendment."

Representative Thielen continued, saying:

"Mr. Speaker, the merits of the amendment are that we need to do what is fair. We need to pass the amended bill that we have before us that has been introduced by Representative Kawanakoa. To take away the wait list claim would be totally unfair, and it does it to the most disenfranchised group of the Hawaiians. Those that have been waiting over 30 years on the wait list.

"We're caught really in a dilemma. We have to pass something tonight or otherwise the whole process dies and

that's the quandary that we're all in. That's why what Representative Kawanakoa is offering makes a great deal of sense, because we can pass that amendment, we can continue to be fair to the wait list claimant, and we can continue to let them have an action that is with claims that are based in damages that they have received from being on the wait list for 30 years. Without that they don't have anything. Without that what claim is there: that someone looked at them the wrong way from DHHL, that someone maybe shuffled their application the wrong way? They basically have nothing without having the wait list claim.

"It may be a financial situation, but now you are really preying upon the most disenfranchised, the smallest group of people. When you take a look at the \$41,200 per claim and maybe 3,000 claimants. Mr. Speaker, that money is not that great, that we cannot find it to be able to allow them to pursue their claims.

"The only way that we can get to that objective, fairly, is to go ahead and pass the amended version that's been introduced by Representative Kawanakoa. And I would really ask the members to take a look at that. We've heard a lot of statements tonight about sincere reservations and people feeling very heartbroken about what they've had to do tonight. You've got the opportunity to do the right thing now and the price tag now is not that big. Just take a look at it. Don't stand up and say I've got severe reservations and then go ahead and shaft those people, that have been on the list and have been shafted, year after year after year."

The Chair then reminded Representative Thielen to "stick to the item of the bill. Stop being opportunistic; will you stick to the merits of the bill."

Representative Thielen continued, stating:

"I'm sticking to the merits of the bill. You have an opportunity, now, to do the right thing. You have an opportunity to regroup and actually cast your vote in favor of the amendment proposed by Representative Kawanakoa. . .

At this time, Representative Ward yielded his time to Representative Thielen.

Representative Thielen continued, stating:

"I would really ask you to do that because otherwise it's empty promises and empty words."

The Chair then told Representative Thielen:

"You're repeating the same thing over and over again. Will you please provide us with some enlightenment on the amendment."

Representative Thielen continued, stating:

"I'm not going to say a parable."

At this time, Representative Aiona yielded his time to Representative Thielen.

Representative Thielen continued, stating:

"Thank you. I now have ten minutes guys. I'm not going to say a parable. I'm going to say you have an opportunity, especially you of Hawaiian blood, have an opportunity now to do the right thing with a very, very small class of claimants."

The Chair then reminded Representative Thielen to "please address the Speaker. I'm not that bad looking that you need to look somewhere else."

Representative Thielen continued, stating:

"I'm sorry, you don't have Hawaiian blood, so I was looking towards the others that do."

The Chair responded:

"I know where you were looking; look right here, please."

Representative Thielen continued, stating:

"We all have an opportunity, Mr. Speaker, to cast the right vote tonight. It does not carry that much of a price tag and I just ask you don't rationalize it to say, 'I have severe reservations,' because that's empty, that's hollow. It's breaking a promise that we have made, and it's taking a step where we know they will not have anything to recover without the wait list."

The Chair then reminded Representative Thielen:

"You're going away from the merits of the bill. You're getting into personalities. Please stick to the merits of the bill or I'll call you out of order the next time."

Representative Thielen continued, stating:

"I'll try it one more time, Mr. Speaker, I guess I wish everyone could close her or his eyes, Mr. Speaker, and sit there and just get in touch with their feelings in their heart. And I've heard those feelings expressed tonight, Mr. Speaker."

The Chair then reminded Representative Thielen:

"Again, you're getting away from the merits of the bill. There's nothing about the heart in the bill. Will you please stick to the merits of the bill."

Representative Thielen continued, stating:

"I'm speaking to the merits of the bill. It requires, Mr. Speaker, a bit of blind justice and if we close our eyes and listen to our hearts, I think we will do what is right and pass Representative Kawananakoa's proposed amendment."

Representative Moses then rose and stated:

"Thank you, Mr. Speaker. I rise in support of the amendment and only regret that I was not quick enough to second it.

"Mr. Speaker, as the Minority Leader stated, we hold our promises in our hand. We're not holding our hands tight enough evidently, because many promises are slipping through our fingers. Let's grasp this amendment and hold on to this promise not only for the Hawaiian people, but for our own honor."

Representative Case then rose and stated:

"I rise in opposition to the amendment.

"You know, Mr. Speaker, I take it very seriously when I hear we're breaking promises. Show me a promise and I'll make sure it's fulfilled. I didn't find that promise in this bill. Show it to me, go back, read the testimony, read the history, read the bills, read what we did, show me the promise. There was not a promise. The mistake that was made was that the panel and the advocates for

these people raised expectations. That mistake that was made by others, not the Legislature.

"One of the four goals that I talked about in an earlier bill was the resolution of disputes. We've already settled a major dispute with DHHL. I believe that we're going back and opening it up again.

"What happened to the resolution of disputes? When is it going to end? We have to wrap up these disputes and move on with life. The DHHL claims have been settled at \$600 million over 20 years without restriction."

Representative Thielen then rose and stated:

"Mr. Speaker, are we speaking to the amendment? I mean, I think, if I've been told that I have to, I believe the Chair should have to."

The Chair then responded:

"Yes, we are. You're out of order. He's getting at a point. Will you please get to a point?"

Representative Case continued, stating:

"Let me get directly to the point of the amendment. You know, I've had a stomach full grand here of postponement, of denial, of avoidance, of 'this is a tough issue so let's put it off for a few years.'

"Well, this issue is now. What are we going to do? Are we going to put this off another two years? And have 3,500 claimants continue to have their expectations increased and then come back to the Legislature and have us go through this process all over again and say no?

"I don't think that's a good decision. I don't think that's a responsible decision. If we have the opportunity to clarify today what should have been clarified previously and which we would otherwise have to clarify in two years, why don't we do it today. We put tough decisions off, and that's all this amendment proposes to do: to put it off. Let's make the decision; let's go on with life. You know, the same remedy can be sought from the Department of Hawaiian Home Lands; that \$600 million is unrestricted and they are working on their waiting list."

Representative Kahikina then rose and stated:

"Mr. Speaker, I stand in support of the proposed amendment and would like to express a conflict of interest."

Asked to "state your conflict," Representative Kahikina stated:

"Mr. Speaker, I have two claims that are lingering in the 3,500 that is addressed in this bill."

The Chair ruled "no conflict."

Representative Kahikina continued, stating:

"Mr. Speaker, the original intent of the bill was to just extend the Panel's life. If anybody is offended, I'm offended. Nobody here knows how to live as a ward of the State. Nobody here can express that. I'm a third generation on the aina ho'opulapula. Still living as a ward of the State. We still got chains that's shackled around our legs. We're not free Americans. If anybody's offended, I'm offended. Talk about carrying on, the whole process is due process and equal protection. No person should be deprived of life, liberty or property without a due process of law. Nor be denied the equal protection of the law. Nor be denied the enjoyment of the

persons civil rights or be discriminated against in the exercise thereof because of race, religion, sex or ancestry. This a direct attack on the Hawaiian ancestry.

"I support the amendment. Thank you."

Representative Kawanakoa then rose to speak in support of the amendment, stating:

"Mr. Speaker, the question raised by the Chair of the Hawaiian Affairs Committee was: Why don't we address this issue now? I think that's meritorious; we should address this issue. If we decide that these claims should not be allowed to the Review Panel, then so be it. If we feel they are not meritorious, so be it

"The law provides for that; it provides for us, as a legislative body, to deny the claims. So let's go ahead and live up to what our promise was -- that we would allow people to file claims. And if we don't like the result of any claim, then we can deny it, but then we should still leave them access to the courts.

"What we're attempting to do here is to do two things: One is to deny the claim; and secondarily, to retract our waiver of sovereign immunity. I think that's unfair.

"I think we should allow the people on the waiting list or the people who have the waiting list claims, if we feel so fit that we should not award them their claim, then allow them to go to the courts as originally intended, as opposed to reclarifying or redefining or otherwise going back and saying, oh, we waived our sovereign immunity with regard to purely waiting list claims. I think that's unfair.

"Again, there was discussion with regard to the \$600 million settlement; that was a settlement with the Department of Hawaiian Home Lands. The claimant in that issue was the Department of Hawaiian Home Lands. It was not the individual beneficiary. We gave the individual claimant, individual beneficiaries, the right to sue. We also gave the right to Hawaiian organizations. We gave it to other agencies representing Hawaiians. We made a settlement with the Department of Hawaiian Home Lands with regard to the \$600 million settlement. We did not settle with the claimant or the individual and that's what we're ignoring here today with this amendment.

"We're allowing the process to continue, to live up to our promise, and if we need to address the tough question that we do not want to fulfill the waiting list claims, the pure waiting list claims, I can live with that. At the same time, we should allow these claimants to move on to the Judiciary, the third branch of government, and allow them to litigate their claim, as we had originally intended, as we had originally promised."

Representative Kawanakoa then requested a roll call vote on the amendment.

The request for a roll call was put to vote by the Chair and upon a show of hands, the request was granted.

At 9:08 o'clock p.m., Representative Cachola asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 9:14 o'clock p.m.

Roll call having been requested, the motion to adopt the amendment was put to vote by the Chair and failed to carry on the following showing of Noes, Ayes and Excused:

Noes, 32: Representatives Cachola, Case, Chang, Garcia, Goodenow, Hamakawa, Herkes, Hiraki, Ito, Jones, Kanoho, Kawakami, Lee, Menor, Morihara, Nakasone, Okamura, M. Oshiro, P. Oshiro, Santiago, Say, Stegmaier, Suzuki, Takai, Takamine, Takumi, Tom, White, Yamane, Yonamine, Yoshinaga and Souki.

Ayes, 19: Representatives Abinsay, Ahu Isa, Aiona, Arakaki, Fox, Halford, Kahikina, Kawanakoa, Marumoto, McDermott, Meyer, Morita, Moses, Pendleton, Saiki, Tarnas, Thielen, Ward and Whalen.

Excused, None.

Representative Arakaki then rose to speak against H.B. No. 1857, HD 1, stating:

"Mr. Speaker, I guess, again, in all deference to the Chair of Hawaiian Affairs, who I know worked very diligently on this bill, I felt that I'm compelled to clear the record because I did serve as your manager on the bill for the claims of the Hawaiian Homes. That was House Bill 1820 two years ago. As part of the process, we went over and over again, what exactly we were settling with that claims bill. We went through several iterations, we talked to many different people, including the task force, on what exactly that bill was to settle.

"And indeed, it was to settle the mismanagement, the politics, the wrongful taking. And indeed, it was identified. It was the Department of Hawaiian Home Lands and their trust responsibility that was wrong, and that was what we were settling. And I think you may remember, Mr. Speaker, and the other managers may also recall, including the current Chair of Hawaiian Affairs, that we had actually proposed as one of drafts to settle the individual claims as well. The only thing is, it would have required a postponement of the actual settlement for another two years, and we were wrongly criticized for even proposing that.

"So it was made very clear to the Senate and to everyone else that the individual claims were not part of the settlement bill. It's my recollection, and I know we don't take any minutes so we don't record what happens in conference committee, but it is my recollection that the claims of the waiting list were not part of this settlement. And that the reason why we did not want to include them in was because many of them would be contested in the courts and, of course, many of them would not be held as viable claims. And for that reason, we decided to exclude those individual claims and the claims on the waiting list. But it was made very clear to me and very apparent to me that the mismanagement of the Department, including favoritism, loss of records, mismanagement of records, led to many of the people on the list not receiving justice, not receiving the homelands awards that were deserved.

"So those are the reasons for my opposition to this bill, and I hope we can again find pono. We can find some ways to resolve these issues without resorting to these measures.

"Thank you, Mr. Speaker."

Representative Yamane then rose and stated:

"I rise in support of House Bill 1857, House Draft 1, and this is the only vehicle. It has to go through.

"I would like to bring up another point that hasn't been brought up so far, and that's that we just recently received the Individual Claims Panel's report. And I think that it is incumbent upon us as legislators that's

been mentioned many times tonight, that we are supposed to be trustees for the people of Hawaii.

"Now several of the factors that are being used by the Panel to determine the values or the dollars for each individual claim should be looked at. There have been several assumptions made by this Panel, and I think it's only fair since we're dealing with the dollars that the people of Hawaii pay to us, that we should make sure that this bill that is being presented to us is examined very thoroughly. And to make sure that Claims Panel is addressing factors that we the Legislature seem to be fair, that will be fair when we have to explain it. So having this one year extension should be the time that we really examine what these factors are and how fair those factors are, Mr. Speaker. I'm concerned that the claims that we should just pay, period, I think is a little bit unfounded and any reasonable person getting a bill should examine."

Representative Kahikina then rose and stated:

"Mr. Speaker, I rise in support with great reservations. My reservations and objections speak at the amendments in House Draft 1, that one, exclude claims for losses based solely on waiting due to lack of available developed homesteads; and two, standardize the methodology for computing interest on an award to the claimant.

"As the previous speaker alluded to about being trustees of the whole State, if we only could be true to those criterias in every aspect of our deliberations. For example, our labor force that is coming in for raises, if we would look at all of these collective bargaining units in the same glasses or through the same eyes, I would be proud to stand here with this body, but that's not the case.

"We have to support this bill because, basically, there will be some people that can have their claims adjudicated, and we need to press forward, to let those people out of the 3,500, 2,500 will practically be wiped off the list with the House Draft 1. But that doesn't mean that we fail the rest of them, and for that matter I support the bill with reservations."

Representative Kahikina's additional remarks are as follows:

"The original intent to extend the Hawaiian Home Lands Trust Individual Claims Review Panel to complete adjudicating the more than 3,500 claims yet to be reviewed.

"At present, 165 claims have been resolved and recommended reparations payments roughly \$6.8 million.

"I support the extension of the 'Review Panel' to allow them to complete Chapter 674 that governs 1959 through 1988 individual Hawaiian Home Lands trusts claims.

"My reservations and objections speak at the amendments in HD 1 that:

- 1) Exclude claims for losses based solely on waiting due to lack of available developed homesteads; and
- 2) Standardize the methodology for computing interest on an award to a claimant."

Representative Thielen then rose to speak against H.B. No. 1857, HD 1, stating:

"This time I will speak to the bill that is before us, Mr. Speaker. The argument that we have 3000-plus claimants and possibly an award, average damage award of \$41,200

per claim, and therefore the State wouldn't have the money that it would take to resolve these claims. So let's yank the rug out from under the claimants and say that they no longer can claim any damages based upon the length of decades they've been on the wait list.

"So the State raised the issue of the \$600,000,000 settlement, trying to say that this really was a waiting list claims settlement. I think that interpretation is wrong, and notwithstanding the persuasive arguments of the Chair of the Hawaiian Affairs Committee, I still think that interpretation is wrong.

"And I would refer members to a, I guess it was called, In Re: Joseph Keliikuli, if I'm saying that correctly. 'Act 14 provides a remedy - in the form of a \$600,000,000 settlement paid over a 30 year period - but that's paid to the trust itself and not to individual beneficiaries.' There's the key difference. 'Act 14 provides additional funds to DHHL which will enable it to develop more homesteads.'

"A consequence of this additional funding is that individual beneficiaries may, eventually, receive homesteads. But this would only reduce an individual beneficiaries future out-of-pocket loss. It [wouldn't] compensate that claimant or other beneficiaries for the losses they have already suffered."

At 9:28 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 9:29 o'clock p.m., the Chair said:

"Take a deep breath and let's go."

Representative Thielen continued stating:

"I refer members to the Native Hawaiian Legal Corporation's analysis. The drafter reviewed the legislative history of Chapter 674 and the testimonies that were available at the State Archives. It is correct that none of the testimonies or committee reports discussed waiting list claims, but the testimonies didn't mention any specific types of claims or breaches of trust. Therefore it cannot be argued that because waiting list claims were not specifically mentioned that they should be excluded from Chapter 674.

"And then you take a look at the Attorney General's testimony on Wednesday, February 13, 1991. The Attorney General was recommending that the bill should not be applicable to any claims which may have been brought which are presently barred by reason of applicable statutes of limitations such as tort claims or breach of contract claims. The Attorney General did not propose that 'wait list' claims be excluded.

"If we don't have wait list claims, then we virtually have no recovery. It's a real hollow recovery, if we take away the real recovery--the 'wait list' claim. And when we stop to think, these people have been on the wait list for decades. We established a claim recovery method under Chapter 674, HRS, and now we're yanking away the real basis for recovery. This is disgraceful."

Representative Case then rose and stated:

"...testimony from Allan Murakami... The issue is the cause... If somebody had to spend time on the wait list or an application has been damaged..."

Note: Due to a mechanical malfunction of the tape recording system, the full text of the comments delivered by

Representative Case, in support of the measure [H.B. No. 1857, HD1] during this portion of the debate, could not be transcribed.

Representative Takai then rose and stated:

"Mr. Speaker, please have the Clerk register a yes with reservations for me on this measure," and the Chair "so ordered."

Representative Pendleton then rose and stated:

"Mr. Speaker, please have the Clerk register a yes with reservations for me on this bill," and the Chair "so ordered."

Representative Morita then rose and stated:

"The original intent of House Bill 1857 was to extend the statutory authority of the Hawaiian Home Lands Individual Claims Review Panel for two years. However, House Bill 1857, HD 1, Standing Committee Report 603 and Standing Committee Report 1091 gut the original purpose of the bill and expands the legislative intent to eliminate 'wait list' claims. Simply put, I feel deep in my na'au this is not right.

"At this time, I support the proposed amendment to address specifically the extension of the Claims Review Panel. Should the amendment not pass, I will vote yes with reservations to allow discussion for the extension of the Claims Review Panel to proceed. Again please note that language allowing for the extension of the Claims Review Panel is the only part of the bill I support and I do not support the legislative intent of both Standing Committee Reports."

At 9:36 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 9:39 o'clock p.m.

Representative Kawanakoa then rose and stated:

"Mr. Speaker, I'd like to rise and make a few remarks with regard to the measure that's before us. It will be brief, Mr. Speaker. It was requested that we show in black and white where the promises was. We seem to be concerned as to whether or not we're fulfilling our promise today in our discussions and I refer us back again to HRS Section 674-16, the waiver of immunity and that subsection A states that, it is written, that the State waives its immunity from liability for actual damages suffered by an individual beneficiary arising out of or resulting from a breach of trust or fiduciary duty, which occurred between August 21, 1959 and June 30, 1988 and was caused by an act of omission of an employee of the State and the management and disposition of trust resources."

"I can't make it any clearer that was the promise, that was the desire, that we would allow the individual beneficiaries to bring a claim against the State, if we did not resolve the issues before us. We waived sovereign immunity. It has been stated again and again that we're at a quandary because we're not sure what the legislative history was. Well, my understanding is, if you don't know what the legislative history was then you go with what the black letter of the law states and the black letter is right before us.

"It's been admitted that we don't have a clear recollection of what occurred with regard to our

intentions. But now, today, we wish to come forward and conveniently state intentions, retroactively. Again, I think that's unfair. However, I feel compelled to vote for this measure with grave reservations as stated. I think we are pulling the rug out from underneath the beneficiaries that have gone through the process, that we could allow to continue in the process and if we found that it was fit for us not to award them a claim, to then allow them to continue on to Circuit Court, as we had originally promised in black and white.

"I've also been given the opportunity, in order to save on some time, to request that these reservations and votes in favor with reservations be effectuated for the whole Minority caucus, and that these reservations be noted in the Journal."

The Chair "so ordered."

Representative Jones then rose and stated:

"Mr. Speaker, I'd like to register a yes with reservations," and the Chair "so ordered."

Representative Ahu Isa then rose and stated:

"Mr. Speaker, I'd also like to register a yes with reservations," and the Chair "so ordered."

Representative White then rose and stated:

"Same for me, Mr. Speaker," and the Chair "so ordered."

Representative Takumi then rose and stated:

"Same for me, Mr. Speaker," and the Chair "so ordered."

Representative Kanoho then rose and stated:

"Same for me, Mr. Speaker, with remarks for inclusion in the Journal," and the Chair "so ordered."

Representative Kawakami then rose and stated:

"Same for me, Mr. Speaker," and the Chair "so ordered."

Representative Meyer then rose and stated:

"I just wanted to ask if I could insert some comments in the Journal," and the Chair "so ordered."

Representative Morihara then rose and stated:

"I would just like to cast my vote in support and thank the Chairman of the Hawaiian Affairs Committee for his brief explanation."

Representative Say submitted the following comments to be inserted into the Journal:

"Mr. Speaker, I rise to speak in favor of HB 1857, HD1. The purpose of this bill is to:

- (1) Extend the Hawaiian Homes Lands Trust Individual Claims Review Panel to December 31, 1998;
- (2) Standardize the method for computing interest on a claimant's award; and
- (3) Exclude claims for losses based solely on waiting due to the lack of available developed homesteads.

"If I may, Mr. Speaker, I would like to focus my comments on this third matter...that is, the issue of 'waiting list' claims.

"In reviewing the history of our collective efforts to address the claims of Native Hawaiians in connection with the Hawaiian Home Lands Trust, we adopted legislation intended to create an overall resolution of claims for breach of trust. You will remember, Mr. Speaker, that in 1991, we passed into law, Act 323.

"Act 323, later codified as Chapter 674, established a process to dispose of certain individual claims for actual damages suffered by trust beneficiaries due to alleged breaches of trust by state employees occurring between August, 1959 and June, 1988. Under this process, the Hawaiian Home Lands Trust Individual Claims Review Panel was to evaluate claims and make recommendations to the Legislature for settlement.

"Two years ago, we passed into law, Act 14. The purpose of this act was to resolve all controversies relating to the Hawaiian Home Lands Trust that arose between August, 1959, and June 1988, except those individual claims permitted under Chapter 674. In return for finality and closure, Mr. Speaker, we promised to pay into the Hawaiian Home Lands Trust Fund, \$600 million, to settle in good faith, our differences.

"Today, we must necessarily revisit this issue. The Panel has submitted its final report recommending that the Legislature authorize and appropriate approximately \$7 million to settle 165 claims. The Panel also reports that over 3,500 claims remain outstanding and unresolved. The minority consist of claims for individual wrongdoing by an individual employee against an individual beneficiary. Generally, these Chapter 674 claims include accelerated awards, lost applications, and qualification disputes.

"More importantly, Mr. Speaker, the great majority of Chapter 674 claims consist of 'waiting list' claims. Essentially, these claims allege that DHHL was negligent in its administration of the trust, and consequently, the waiting list was longer than it should have been. I understand that the total amount of all pending 'waiting list' claims is estimated at a minimum of \$100 million and could be substantially higher.

"Mr. Speaker, in good conscience, I firmly believe that the Legislature never intended that Chapter 674 encompass these 'waiting list' claims. It was the \$600 million settlement that was intended to bring finality and closure to these 'general' 1959-1988 trust controversies. Instead, Chapter 674 seeks to resolve 'pure' individual claims for alleged individual wrongdoing by individual DHHL employees relating to individual beneficiaries. Simply state, the 'waiting list' claims are not and never were claims within the scope of Chapter 674.

"It is for these reasons, Mr. Speaker, that I support the careful deliberations and hard work of the Chairman and members of the Hawaiian Affairs Committee and support passage of this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1857, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAIIAN HOME LANDS TRUST INDIVIDUAL CLAIMS," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Arakaki, Takamine and Tarnas voting no.

The Chair directed the Clerk to note that H.B. No. 1857 had passed Third Reading at 9:43 o'clock p.m.

H.B. No. 145, HD 1:

Representative Okamura moved that H.B. No. 145, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

REMARKS (See HSCR 708 and H.B. No. 1801, HD 1)

The motion was put to vote by the Chair and carried, and H.B. No. 145, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AN EMERGENCY AND BUDGET STABILIZATION FUND," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Aiona, Halford and McDermott voting no.

Stand. Com. Rep. No. 708 and H.B. No. 1801, HD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1801, HD 1, pass Third Reading, seconded by Representative M. Oshiro.

Representative Marumoto rose and stated:

"I would like to give some remarks in opposition to this measure. This is almost anticlimactic after such emotional issues, however, it's no less important, it is the constitutional amendment.

"I oppose repealing the constitutional amendment which allows the return of monies to the taxpayers when the general fund year-end balance exceeds 5% of General Fund revenues.

"The Tax Foundation points out that this amendment serves a very useful purpose by pointing out the size of the surplus and increasing fiscal responsibility to voters. At the end of 1989, for instance, the surplus reached an astronomical \$629 million. Hawaii is known for its high taxes and this provision allows for the return of these taxes back to the people when there is sufficient money to take care of state needs.

"We also have the option to exceed the spending ceiling and appropriate the money or, as we have done in the past, stuff it into special funds as we did during this period.

"Yes, it's true, that in meager years as we have been experiencing lately, we may be required to rebate only \$1. However, this can be accomplished at little cost by having taxpayers merely check off a box if they wish to claim this refund. It is a credit against their taxes. No, the state does not have to mail out several hundred thousand \$1 checks.

"Though I do favor a budget stabilization or 'rainy day' fund in the Constitution, its formation should not be instituted in the same measure or on the same ballot question as the repeal of the refund amendment. People should be given the option to: 1) repeal the refund provision, and/or; 2) perhaps enact a rainy day fund. We don't have to get rid of one. We need both.

"The Tax Foundation points out that the rainy day fund should co-exist with a refund provision. In fact, the rainy day fund will need a refund provision when the rainy day fund 'fills up,' and there is no rebate to drain off excess funds. What will the Legislature do then? Exceed the general fund expenditure ceiling and spend the money? That would be very tempting!

"Yes, on establishing a rainy day fund. No, on repealing the disposition of excess revenue constitutional provision. Therefore, NO on this bill.

Representative Kawananakoa then rose and stated:

"Mr. Speaker, I rise in opposition to HB 1801, HD1. In the interest of time, I ask that the remainder of my remarks be inserted in the Journal in opposition to HB 1801, HD1.

"Thank you, Mr. Speaker."

The Chair "so ordered."

Representative Kawanakoa's remarks are as follows:

"We must not deny the taxpayers of Hawaii their constitutional right to a refund of surplus state revenues.

"The current refund system places a ceiling on how much surplus revenues the state can generate. If the economy booms and the state receives a windfall in tax collections, the extra money gets refunded back into the pockets of Hawaii taxpayers.

"This is a fair system that ensures that the state government is accountable for the taxes that it imposes, and that our constituents are getting the government services that they paid for.

"HB 1801 proposes to abolish these refunds to the taxpayer, and instead channel the surplus funds into a 'rainy-day fund' that could be used to supplement state finances during a future recession. If this bill is enacted, it will remove any ceiling on government revenues - beyond a certain point, all extra revenues would go into the rainy-day fund.

"This means that no matter how much extra money the government collects in taxes, the taxpayer will never get a dime of it back again. The surplus of money would be swept into the rainy-day fund, where it may sit untouched for years. The Hawaii taxpayer already has a hard enough time paying the taxes that support our current government programs. We do not have to increase their burden by forcing them to pay for tomorrow's government spending with today's taxes."

Representative Moses then rose to speak against the bill, stating:

"Mr. Speaker, you know, special funds, general funds, federal funds, the taxpayer out there often doesn't have a grasp on what we're trying to talk about with all these funds. It's very confusing even to us here. And that's why I want to use a comparison that any taxpayer would understand to speak against the rainy day fund.

"If we had overpaid our income taxes during the year and the Department of Taxation decided not to issue us a check for a tax refund, and instead they would hold our refund and apply it to any future taxes, well it's the people's money, and I say give it back.

"Thank you, Mr. Speaker."

Representative Tarnas then rose and stated:

"If you would please request that the Clerk cast a yes vote for me with reservations," and the Chair "so ordered."

Representative Kahikina then rose and stated:

"Yes, Mr. Speaker, on the first measure to amend the Constitution, I'd like to request a no vote and a yes vote for House Bill No. 145, and ask that Representative Marumoto's words be entered in the Journal as if my own," and the Chair "so ordered" (By reference only).

Representative Morihara then rose to speak in favor of the bill, stating:

"Mr. Speaker, I hope that in the time that we do run budget surpluses, rather than look at a dollar rebate or any kind of rebate on a temporary basis, we would look at true tax reform. And I think that's the purpose of what we should be looking towards in the future."

Representative Fox then rose and stated:

"Thank you, Mr. Speaker. A no vote on House Bill 1801.

"Very briefly, it is my recollection that the Constitutional Convention, which many members here were participants in 1978, had this as a major issue, that when there is a surplus, it should be returned to the people. I believe we should keep the faith with the people.

"Thank you."

Representative Kawanakoa rose in opposition to the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Kawanakoa's remarks are as follows:

"There are many of my constituents who would love to have their own 'rainy day fund,' but can't. Why? Because this state has taken their money and squirreled it away in its own special funds. Now we want to authorize a 'rainy day fund' so we don't have to give it back to the taxpayers at all. This state has a dismal record of holding on to money. We once had a \$600 million surplus. Where is it now? Give the money back to the taxpayers. Let them save their money for their rainy day."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1801, HD 1, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 6 OF THE HAWAII CONSTITUTION TO REPEAL THE EXCESS REVENUE TAX REFUND AND ESTABLISH AN EMERGENCY AND BUDGET STABILIZATION FUND," passed Third Reading by a vote of 38 ayes to 13 noes, with Representatives Aiona, Fox, Halford, Kahikina, Kawanakoa, Marumoto, McDermott, Meyer, Moses, Pendleton, Thielen, Ward and Whalen voting no.

The Chair directed the Clerk to note that H.B. Nos. 145 and 1801 had passed Third Reading at 9:51 o'clock p.m.

HOUSE COMMUNICATIONS

A communication, dated March 4, 1997, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable Benjamin J. Cayetano, Governor of the State of Hawaii, giving notice of the final form of House Bill No. 131, HD 2, entitled: "PROPOSING AN AMENDMENT TO ARTICLE X, SECTION 2, OF THE HAWAII CONSTITUTION, TO CHANGE THE BOARD OF EDUCATION FROM AN ELECTED BOARD TO AN APPOINTED BOARD," in accordance with the provisions of Article XVII, Section 3 of the Hawaii State Constitution.

A communication, dated March 4, 1997, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable Benjamin J. Cayetano, Governor of the State of Hawaii, giving notice of the final

form of House Bill No. 1801, HD 1, entitled: "PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 6, OF THE HAWAII CONSTITUTION TO REPEAL THE EXCESS REVENUE TAX REFUND AND ESTABLISH AN EMERGENCY AND BUDGET STABILIZATION FUND," in accordance with the provisions of Article XVII, Section 3 of the Hawaii State Constitution.

INTRODUCTION OF RESOLUTIONS

By unanimous consent, the following resolutions (H.R. Nos. 45 through 50) and concurrent resolutions (H.C.R. Nos. 51 through 58) were referred to Printing and further action was deferred:

H.R. No. 45, entitled: "HOUSE RESOLUTION REQUESTING THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES IN COORDINATION WITH THE UNIVERSITY OF HAWAII-HILO TO CONDUCT A FEASIBILITY STUDY FOR A MULTI-PURPOSE SPORTS AND RECREATION COMPLEX ON THE UNIVERSITY OF HAWAII-HILO CAMPUS," was jointly offered by Representatives Chang, Herkes, Hamakawa, Whalen, Tarnas, Abinsay, Ahu Isa, Cachola, Ito, Jones, Kanoho, Kawakami, Morihara, Morita, Nakasone, M. Oshiro, Stegmaier, Takai, Takumi, White and Yonamine.

H.R. No. 46, entitled: "HOUSE RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO DEVELOP PLANS AND DESIGNS FOR THE CONSTRUCTION OF A FOYER AT THE OLD KONA AIRPORT STATE RECREATIONAL PARK EVENTS PAVILION," was offered by Representative Whalen.

H.R. No. 47, entitled: "HOUSE RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO DESIGNATE THE OLD KONA AIRPORT STATE PARK AS THE PERMANENT SITE FOR THE BIG ISLAND FARM FAIR," was offered by Representative Whalen.

H.R. No. 48, entitled: "HOUSE RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO DETERMINE THE FEASIBILITY OF EXTENDING THE LENGTH OF THE SCHOOL DAY TO INCREASE TEACHING OPPORTUNITIES AND MAKE THE MOST OF THE LEARNING POTENTIAL OF CHILDREN IN KINDERGARTEN TO GRADE THREE," was jointly offered by Representatives Arakaki, Morihara, Ahu Isa, Takai, M. Oshiro, Garcia, Meyer, Cachola, Pendleton, Morita, Tarnas, White and Ward.

H.R. No. 49, entitled: "HOUSE RESOLUTION REQUESTING A STUDY OF LEGAL ISSUES RELATING TO PUBLIC RIGHTS-OF-WAY," was jointly offered by Representatives Arakaki, Takumi, Cachola, Ahu Isa, Marumoto, Hiraki, Yamane, Abinsay and Suzuki.

H.R. No. 50, entitled: "HOUSE RESOLUTION REQUESTING THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS TO ESTABLISH A CHILD CARE JOB TRAINING PROGRAM," was jointly offered by Representatives Arakaki, Meyer, Ahu Isa, Fox, Hamakawa, Hiraki, Lee, Okamura, Takumi and Ward.

H.C.R. No. 51, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO ASSESS THE SOCIAL AND FINANCIAL EFFECTS OF REQUIRING HEALTH INSURERS TO OFFER FORTY-EIGHT-HOUR MATERNITY COVERAGE IN ORDER TO ELIMINATE THE PROBLEMS OF "DRIVE-THROUGH DELIVERIES"," was jointly offered by

Representatives Lee, Thielen, Halford, Meyer, Ward, Pendleton, Aiona, Kawanakoa, M. Oshiro, Takumi, Ahu Isa, Goodenow, Tarnas, Case, Abinsay, Hiraki, Yoshinaga and Morita.

H.C.R. No. 52, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES IN COORDINATION WITH THE UNIVERSITY OF HAWAII-HILO TO CONDUCT A FEASIBILITY STUDY FOR A MULTI-PURPOSE SPORTS AND RECREATION COMPLEX ON THE UNIVERSITY OF HAWAII-HILO CAMPUS," was jointly offered by Representatives Chang, Herkes, Hamakawa, Whalen, Tarnas, Abinsay, Ahu Isa, Cachola, Ito, Jones, Kanoho, Kawakami, Menor, Morihara, Morita, Nakasone, Stegmaier, Takai, Takumi, White and Yonamine.

H.C.R. No. 53, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO DEVELOP PLANS AND DESIGNS FOR THE CONSTRUCTION OF A FOYER AT THE OLD KONA AIRPORT STATE RECREATIONAL PARK EVENTS PAVILION," was offered by Representative Whalen.

H.C.R. No. 54, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO DESIGNATE THE OLD KONA AIRPORT STATE PARK AS THE PERMANENT SITE FOR THE BIG ISLAND FARM FAIR," was offered by Representative Whalen.

H.C.R. No. 55, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO DETERMINE THE FEASIBILITY OF EXTENDING THE LENGTH OF THE SCHOOL DAY TO INCREASE TEACHING OPPORTUNITIES AND MAKE THE MOST OF THE LEARNING POTENTIAL OF CHILDREN IN KINDERGARTEN TO GRADE THREE," was jointly offered by Representatives Arakaki, Ahu Isa, Morihara, Takai, Garcia, Meyer, Cachola, Pendleton, Morita, Tarnas, White, Ward and M. Oshiro.

H.C.R. No. 56, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A STUDY OF LEGAL ISSUES RELATING TO PUBLIC RIGHTS-OF-WAY," was jointly offered by Representatives Arakaki, Takumi, Ahu Isa, Cachola, Marumoto, Hiraki, Yamane, Abinsay and Suzuki.

H.C.R. No. 57, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS TO ESTABLISH A CHILD CARE JOB TRAINING PROGRAM," was jointly offered by Representatives Arakaki, Goodenow, Meyer, Yoshinaga, Thielen, Abinsay, Ahu Isa, Aiona, Case, Fox, Halford, Hamakawa, Hiraki, Kawakami, Kawanakoa, Lee, Marumoto, Morita, Okamura, M. Oshiro, Pendleton, Takai, Takumi, Tarnas and Ward.

H.C.R. No. 58, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE Governor, WITH THE ASSISTANCE OF THE OFFICE OF YOUTH SERVICES, THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM, THE UNIVERSITY OF HAWAII, AND THE UNITED NATIONS, TO PLAN AND CONVENE A SUMMIT FOR ASIAN AND PACIFIC CHILDREN AND YOUTH," was jointly offered by Representatives Arakaki, Takai, Stegmaier, M. Oshiro, Case, Lee, Kahikina, Santiago, Morita, Ward, Morihara, Pendleton, Marumoto, Cachola, Herkes, Ahu Isa, Kawakami, White, Tarnas, Abinsay, Garcia, Aiona and Meyer.

ANNOUNCEMENTS

Representative Ward: "Mr. Speaker, after this 13 hour marathon in this marketplace of ideas, I still must remind my Minority caucus that we're going to have a \$13 billion discussion tomorrow in a caucus meeting at 2:30 tomorrow in the Caucus Room."

Representative Okamura: "Mr. Speaker, there will be a Majority caucus on Thursday morning at 10:00 a.m. in the Majority Caucus Room."

ADJOURNMENT

At 9:52 o'clock p.m., on motion by Representative M. Oshiro, seconded by Representative Thielen and carried, the House of Representatives adjourned until 11:30 o'clock a.m. on Thursday, March 6, 1997.