

TWENTY-FIRST DAY

Friday, February 15, 2002

The House of Representatives of the Twenty-First Legislature of the State of Hawaii, Regular Session of 2002, convened at 12:06 o'clock p.m., with the Speaker presiding.

The invocation was delivered by Reverend Tatsuo Muneto of the Moiliili Hongwanji Mission, after which the Roll was called showing all members present with the exception of Representatives Hamakawa, Morita, Ontai, Pendleton, Rath, Takai, and Thielen, who were excused.

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

GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 178 through 199) were received and announced by the Clerk were placed on file:

Gov. Msg. No. 178, transmitting the Annual Report on the Teacher Education Coordinating Committee prepared by the Department of Education.

Gov. Msg. No. 179, transmitting the Annual Report on the School Priority Fund prepared by the Department of Education.

Gov. Msg. No. 180, transmitting the Annual Report on the Incentive and Innovation Grant Trust Fund prepared by the Department of Education.

Gov. Msg. No. 181, transmitting the Annual Report on the Federal Grant Search, Development, and Application Revolving Fund prepared by the Department of Education.

Gov. Msg. No. 182, transmitting the Federal and Trust Funds Annual Report prepared by the Department of Education.

Gov. Msg. No. 183, transmitting the Carryover of Funds Annual Report prepared by the Department of Education.

Gov. Msg. No. 184, transmitting the Annual School-by-School Expenditures Report prepared by the Department of Education.

Gov. Msg. No. 185, transmitting the Mandatory Expulsion Policy for Possession of a Firearm prepared by the Department of Education.

Gov. Msg. No. 186, transmitting a report, Requesting the Department of Education to Provide Transportation for Students Involved in After School Extracurricular Activities.

Gov. Msg. No. 187, transmitting a report, Requesting the Department of Education and Board of Education to Identify the Full Cost of Educating Federally Connected Children with Disabilities as Allowed by the Federal Impact Aid Formulas.

Gov. Msg. No. 188, transmitting a report, Requesting the Department of Education and University of Hawai'i to Study the Feasibility, Benefits, and Costs Associated with Linking Their Individual Student Information Systems to Create a Linked K-16 Database.

Gov. Msg. No. 189, transmitting a report, Requesting that the Department of Education and the University of Hawai'i Community Colleges Initiate a Collaborative Partnership to Improve Services for Adults and Expand Opportunities for

High School Students That Will Result in Substantive Outcomes for the Two Entities.

Gov. Msg. No. 190, transmitting a report, Requesting the Department of Education to Ensure that All Middle and Intermediate School Students are Provided with Enrichment Activities.

Gov. Msg. No. 191, transmitting a report on DOE's Progress of Meeting the Requirements of the Felix Response Plan.

Gov. Msg. No. 192, transmitting a report on Personnel Expenditures for CIP.

Gov. Msg. No. 193, transmitting a report on the Education Research and Development Revolving Fund.

Gov. Msg. No. 194, transmitting a report on the Interagency Educational Accountability Working Group.

Gov. Msg. No. 195, transmitting a report on the School Rental Fees for Use of School Facilities.

Gov. Msg. No. 196, transmitting the report, Requesting the Board of Education to Create a Program that will Facilitate the Voluntary Participation of High School Students in Community Service, Work Experience, or Service Learning.

Gov. Msg. No. 197, transmitting the report, Requesting the Board and Department of Education to Reevaluate Reading Goals for Students in Hawaii's Public Schools and Increase System Accountability for Attaining those Goals.

Gov. Msg. No. 198, transmitting the Educational Assessment and Accountability Annual Reports.

Gov. Msg. No. 199, transmitting the report, Requesting the Department of Education and Kamehameha School to Conduct a Feasibility Study on Establishing a Resource Center for Students, Parents, and Teachers on the Island of Kauai.

INTRODUCTIONS

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

Representative Magaoay introduced students from Waialua Elementary School, their parents, and their teachers, Mr. Dale Yoshizu, Ms. Katherine Hamamoto, and Ms. Sharon Nakamura.

Representative Ahu Isa introduced students, teacher and parents from Kauluwela Elementary School.

Representative Arakaki introduced students from Kalihi Uka Elementary School, and their teachers Mrs. Shirley Monico and Mrs. Lily Hebert.

Representative Garcia introduced his intern from Leeward Community College, Ms. Shareen Garcia.

Representative Bukoski introduced his staff, Ms. Mona Kapaku, Mr. Mickey Vierra, and his son, Master Duke Bukoski.

At 12:15 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 12:49 o'clock p.m.

ORDER OF THE DAY

COMMITTEE REASSIGNMENTS

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

<u>H.B. Nos.</u>	<u>Re-referred to:</u>
1822, HD1	Committee on Finance
2029	Committee on Finance
2079	Committee on Finance
2274	Committee on Labor and Public Employment, then to the Committee on Finance
2277	Committee on Labor and Public Employment, then to the Committee on Finance
2353, HD1	Committee on Education, then to the Committee on Finance
2587	Committee on Labor and Public Employment, then to the Committee on Finance
2588	Committee on Labor and Public Employment, then to the Committee on Finance
2753	Committee on Finance
2768	Committee on Judiciary and Hawaiian Affairs

STANDING COMMITTEE REPORTS

Representatives Morita and Hiraki, for the Committee on Energy and Environmental Protection and the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 269-02) recommending that H.B. No. 2837, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2837, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY," passed Second Reading and was referred to the Committee on Finance with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 270-02) recommending that H.B. No. 2266, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2266, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ACCRETED LANDS," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs with Representatives Kahikina,

Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 271-02) recommending that H.B. No. 2444, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2444, H.D. 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Hale rose to speak in opposition, stating:

"Please register a no vote for me on H.B. 2444, H.D. 1. I explained to this Body yesterday that I really look at special bonds to make sure that they are in the public welfare and in the interest of the people. In this particular case, the Department of Health raised serious questions in my mind about the location of this facility and until that is done I really cannot vote for this bill."

[Note: Representative Hale later clarified that she supports Standing Committee Report No. 271-02 and H.B. No. 2444, HD 1, and her no vote and remarks in opposition should be applied to Standing Committee Report No. 289-02 and H.B. No. 2731, HD 1.]

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2444, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE KALAELOA COMMUNITY DEVELOPMENT DISTRICT," passed Second Reading and was referred to the Committee on Finance with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 272-02) recommending that H.B. No. 2102, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2102, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE LICENSES," passed Second Reading and was referred to the Committee on Finance with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 273-02) recommending that H.B. No. 2295, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2295, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"Mr. Speaker, it is my own belief that this bill is not necessary. We already have a Consumer Advocate. This is more government, more spending, and is not needed here in our State. 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. 2295, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC UTILITIES COMMISSION," passed Second Reading

and was referred to the Committee on Finance with Representative Djou voting no, and with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 274-02) recommending that H.B. No. 2473, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2473, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM SECURITIES ACT," passed Second Reading and was referred to the Committee on Finance with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Chang, for the Committee on Tourism and Culture presented a report (Stand. Com. Rep. No. 275-02) recommending that H.B. No. 2192, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2192, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TOURISM AUTHORITY," passed Second Reading and was referred to the Committee on Finance with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 276-02) recommending that H.B. No. 2065, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2065, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce, seconded by Representative Lee.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2065, entitled: "A BILL FOR AN ACT RELATING TO NURSES," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 277-02) recommending that H.B. No. 2258, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2258, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MARRIAGE AND FAMILY THERAPY," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representatives Arakaki and Kahikina, for the Committee on Health and the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 278-02)

recommending that H.B. No. 2220, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2220, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LANGUAGE ACCESS FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY," passed Second Reading and was referred to the Committee on Finance with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 279-02) recommending that H.B. No. 1777, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1777, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES," passed Second Reading and was referred to the Committee on Finance with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 280-02) recommending that H.B. No. 2630, as amended in HD 1, be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2630, HD 1, be referred to the Committee on Finance, seconded by Representative Lee.

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

"Mr. Speaker, I will vote in favor of this measure but I have some reservations about this program that this bill establishes. They're designed to promote Hawaii products and produce. It will create yet another special fund, more rules and regulations, more staff and record keeping, more penalties, more licenses, and more penalties up to a \$1,000 a day. But because the industry is requesting this bill, I reluctantly vote yes. 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. 2630, HD 1, entitled: "A BILL FOR AN ACT RELATING TO A SEAL OF QUALITY FOR FRESH AND PROCESSED AGRICULTURAL PRODUCTS PROGRAM," was referred to the Committee on Finance with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 281-02) recommending that H.B. No. 2764, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2764, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"Mr. Speaker, I am going to vote no on this bill. The 25% that goes into the Department of Land and Natural Resources, basically protecting our environment, is being cut in half, to

twelve and a half percent. The other half is going to the Homeless Assistance Trust Fund. Although I feel strongly that we need to support our homeless population, I just feel that we need to protect our environment. Thank you."

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

"As the previous speaker already noted, environmental programs are quite frequently underfunded, but also the conveyance tax, taxes too much. It taxes and takes in more money than is necessary to run the Bureau of Conveyances. It allows problems with 'monkeying' around with special fund resources and money. This bill represents more of that 'shell game' that goes on with the use of special funds, and for that reason I oppose this measure. Thank you."

Representative Fox rose to speak in opposition to the measure, stating

"I would defend the original use of this Fund. I am very much in favor of funding the homeless, but not this way. Not at the expense of a good environmental program that is working. Thank you."

Representative Kahikina rose to speak in support of measure, stating:

"I appreciate the opposition to the measure of using the conveyance tax. But the said purpose that the Chair and the Committee on Human Services and Housing were addressing is the issue of homelessness. As we all know, the conveyance tax is the tax that is taxed upon conveying land titles. The Committee and the Chair saw a very direct nexus of using that tax for homelessness.

"Now mind you, pitting the trees against human needs is really at stake. This issue rises up to the level of statesmanship, Mr. Speaker. This issue speaks to the very core of why we get elected. Yes, we need the trees. Just as much as we breathe out carbon dioxide, the trees need that carbon dioxide to change it into oxygen that we need to breathe. But guess what? We need our human relations just as much as the trees. This is why the decision was a hard task to decide on.

"This measure will take effect for one year. Mr. Speaker, I would appreciate if my colleagues would try to give this Chairman some solutions to some of the dire needs out there. Solutions, not giving away tax credits and depleting the very need resources that we need to distribute services to all of the needs of the public. We need solutions and this measure, I am asking on behalf of people and the children that are homeless, of the men and women, *kupuna*. One day it might be you and I, because we made a decision to use that tax which is called the conveyance tax, for only one year, to prevent someone from being homeless. Please support this measure."

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

"Thank you, Mr. Speaker. I am in strong support. I don't think I could be any more eloquent than my brother here from the Leeward Coast. But I just need to remind everyone, as we move farther away from the events of September 11th, there are still many families here in Hawaii who have been economically devastated by the downturn in economy. A lot of it has to do with living conditions, not only being homeless but also living in older, cottage situations. I think I pointed out during Special Session that this is one of the few times in the history of our homeless programs, we have a waiting list. It is unheard of that people have to wait to get emergency shelter.

"We have a crisis on our hands and I think when we have a crisis, we are called upon to reorder our priorities. Yes, the Conservancy Fund is important, but like my brother said, we have to take care of our brothers and sisters first. That should be priority one, unless we want to say that it is okay for our families and our children, our *keiki*, our *kupuna*, they can go and live on the beach. At least they will have nice trees to look at. So Mr. Speaker, I hope that everyone supports this reordering of priorities. Thank you."

Representative Moses rose to speak in opposition to the measure and asked that the remarks of Representatives Fox and Djou be entered in the Journal as his own, and the Chair "or ordered." (By reference only.)

Representative Moses continued, stating:

"I would like to say, of course I have a place in my heart for the homeless. But, for instance, in my district, we have homeless shelters that we are building. We have self-help housing that we are building. We have low-income housing that we are building. This is the way to help the homeless, not take money for one year and then take it away from them again. I was asked to offer a solution. That is one solution. If we don't do something that is just going to be a band-aid for a year. If we think this is that much of a problem, and I believe that it might be, then we should take money from the general fund and help the homeless. Not take it from a tax that was created for a different reason. Thank you Mr. Speaker."

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

"I think that the best way that we can continue to help our brothers and sisters who are in dire need, from September 11th, and even before that, is we need to stop adding to the cost of living. This is just one other tax that just gets passed along some way or another. It doesn't help those who need it the most.

"I would agree with the previous speaker that if it is important enough, we ought to be taking these funds from the general fund, and do it in a proper fashion. Thank you."

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

"If I could please, comment that the homeless would be somewhat assisted if we would eliminate the tax on food."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2764, entitled: "A BILL FOR AN ACT RELATING TO CONVEYANCE TAX," passed Second Reading and was referred to the Committee on Finance with Representatives Djou, Fox, Gomes, Jaffe, Moses, Stonebraker voting no, and with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representatives Kahikina and Arakaki, for the Committee on Human Services and Housing and the Committee on Health presented a report (Stand. Com. Rep. No. 282-02) recommending that H.B. No. 2056, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2056, HD 1, entitled: "A BILL FOR

AN ACT RELATING TO SOCIAL WORK," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Suzuki, for the Committee on Legislative Management presented a report (Stand. Com. Rep. No. 283-02) recommending that H.B. No. 1821, HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1821, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE LEGISLATIVE AUDITOR," passed Second Reading and was referred to the Committee on Finance with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Suzuki, for the Committee on Legislative Management presented a report (Stand. Com. Rep. No. 284-02) recommending that H.B. No. 2842, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2842, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"I understand what this bill is intending to do, however, I think that the way it is drafted, as I understand it, it is unreasonably punitive. I would note that although the committee report says that the Campaign Spending Commission expressed concerns regarding this bill, I think that they've got more than concerns. It was my recollection that they were against the punitive nature of this.

"The first paragraph of the committee report, the last sentence says that the forfeiture will start from the date of the act constituting the felony. I guess that is my problem, because as I read the bill, that is not what it says. If the bill did say that, if it were clear, I would have no problem supporting it. So that it is my reservation.

"I think it would be appropriate to remove those benefits once the act begins, but not for, as the Campaign Spending Commission reported, for someone who has had a very good career up until to that point when they have done nothing wrong, so I am in opposition to this measure and would like a no vote."

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

"I rise in strong support of this bill. As one of the drafters of this bill, one of the attempts was that when somebody is committing an act that is so egregious, and it is within the scope and course of their duties as an elected, public official, I see no reason why they should continue to receive any benefits. The punitive nature goes back to the date at which they committed the crime. Thereafter, their retention and staying in their public office really should have not been there. So their collection of benefits and their entitlement to benefits, thereafter, becomes questionable and speculative.

"I think that is what the bill is trying to do. What it states is that at the time of that act, that is when the benefits can be forfeited. And if the act is egregious, then the judge has the discretion to take any and all of the benefits.

"I think that all of us as public officials and elected officials have a duty and trust that we need to uphold, and if we in any way undercut or undermine that trust, then we should be subject to forfeiting our benefits because we have abused that right. Thank you."

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

"Whereas I can understand those who authored the bill and their feeling for this particular item, however Mr. Speaker, what the members must remember is that we need to separate the crime from what has been accrued. If the legislator or government official has accrued their benefits through their contributions for the period up to the time of the crime, which have been matched by the respective jurisdictions, this should not be affected. I think that it is very unfair and unwise to include the crime and the benefits in one package. It should be separated. I know it is a nice election issue, but I think we should be mindful of the problem that can occur and it is unfair.

"What are we going to be with the money that has been deposited and has been accrued? Does it go back to the general fund? Does it go to somewhere else? The member has been depositing money into this Fund and now if you just take it away and say it is not yours anymore, I think that we need to answer that question. Thank you very much, Mr. Speaker."

Representative Gomes rose to respond, stating:

"I wanted to echo again, I am in great agreement with the remarks from the Vice Chair of Judiciary, but again, as it was pointed out by the Campaign Spending Commission, who I think has special stature on a bill like this, that it was unreasonably punitive in its nature. The speaker from Maui is correct that we need to separate the crime from the action. Also I think, I am not sure, but you may have mentioned that I voted with reservations in committee on this, but I did vote nay on this particular measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2842, entitled: "A BILL FOR AN ACT RELATING TO ELECTED OFFICIALS," passed Second Reading and was referred to the Committee on Finance with Representative Gomes voting no, and with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Suzuki, for the Committee on Legislative Management presented a report (Stand. Com. Rep. No. 285-02) recommending that H.B. No. 2612, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2612, HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs, seconded by Representative Lee.

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

Representative Moses rose to speak in opposition to this measure, stating:

"I am not an employee of this State. I believe this bill tries to say that I am. While I respect him, which is you, I don't work for the Speaker of the House. I work for the people who elected me. I have a special contract with them and I work for all the people of this State, in general, but I do not work for this

State government or for the House of Representatives. I work for the people, so I have to vote no Mr. Speaker."

Representative Djou rose and asked that the Clerk record a no vote for all Minority Members present with the exception of Representative Leong who votes yes.

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

"Briefly, this one part of the bill that describes 'employer,' I just want to comment that we are elected and we come into this Body as colleagues. It is correct that we pick and we choose leadership, and I respect that. I believe that it is a mistake for us to move to characterize it as an employer-employee relationship. Thank you."

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

"Mr. Speaker I stand in strong support of H.B. 2612, H.D. 1. Mr. Speaker, your Committee on Legislative Management heard testimony and comments on this bill. I had an opportunity to review this bill and take some of my suggestions and ideas toward amending it. As originally proposed, I think this bill would have applied to all different employer groups, including the Judiciary, Executive Branch and the Legislative Branch. What it does in H.D. 1 is limit it to just the Legislative Branch.

"We defined, for the purposes of this bill, the employer as being either the Speaker of the House or the Senate President. What is really interesting about this bill is that it seeks to basically mirror what goes on in the private sector. As most people might know, when you have a LAN system computer setup, there are no expectations of privacy amongst the different employees in that particular business. In other words, the employer of the organization has the full right and authority to enter into the computers that might be on the person's desk or in their private offices for the purposes of ensuring the integrity of the LAN system.

"In the State House of Representatives, we have a computer system that is linked together and it is serviced by the various Clerk's offices. Through that vehicle, we do our business as legislators, and through that computer system, we need to maintain the integrity of the system because of the proprietary nature of the work that we do. That the access is protected.

"For this reason, many times businesses, and like this bill will seek to do, we need to ensure that the integrity of their system is maintained so that it is not contaminated by outside meddling that can sometimes occur. This bill prevents that by giving you, as the Chief Officer of this Body, or the Chief Head of this entity, the full authority to enter into anyone's computer that is hooked up to our system here for any work related purposes, if there is suspected misuse of government equipment, and for random inspection for misuse.

"Another important thing here is to avoid any appearance of impropriety or political decision making in this case. It allows for the consultation with a committee, and on the committee, Mr. Speaker, there will be a proportionate number of the Majority and the Minority. Before any of these events occur, I think that these are adequate safeguards to ensure that the Speaker of the House does not, on his own, initiate, without any kind of check and balance on the abuse this power. So I think that it is a well-crafted bill and I hope members will support it."

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

"I appreciate the Majority Leader's speech, but he failed to address the point that was made. In his comparison to the private sector, the key point there is that in the private sector, the employer, supervisor, whomever, hired those people and has given them work assignments. It is not merely to investigate the integrity of the system, but they are also entitled to monitor all the of the use that goes on with those computers, e-mail and everything else, to have the right to go in and access it.

"The point that was made earlier is that we are not employees of the House, and although we respect your leadership, and the leadership of others that are put there, we don't work for you, as you would readily admit, I know. We don't work for our Minority or Majority Leadership. As the Majority Leader said, there is the proprietary nature of our work which is individual to our own offices, not to the House, it is to our own offices. To call each one of us employees of whomever the Speaker might be on any given day, or year, or session, and that they have the right to go in to our computer system and randomly to do inspections for misuse, is really not proper.

"Although I can't speak authoritatively on this, I am unaware of any other legislature which gives the authority to one person, under consultation with a committee or not, to go into a legislator's private workings and go through their computer to see what is there.

"As you know, Mr. Speaker, the way our system is set up downstairs, the 'big brother' computer, the server we have, knows which computers are working on it, and has them identified by number, etc. So it is not a matter of accessing computers or looking at them to see how they are hooked up. It is to monitor the content, to look at what is going on with the computers and what they are being used for. For that, you have to go into someone's computer and actually go through the electronic records, etc. I feel that it is very much overstepping, and that we must have confidence in ourselves, as legislators, that we will follow rules, and if we don't, part of the freedom is responsibility.

"If people are doing things improperly, using their computers for things that are not allowed, whether it is for campaign or otherwise, recreational, then let the responsibility fall on their shoulders. We are adults. We are elected by our communities. Let the ax fall where it may, and the chips lie where they lie. We are responsible to our constituents, not to the State of Hawaii, not to any particular person in any branch, but to our constituents.

"This bill perpetuates that thought process which we are seeing in other bills as well. Some of the mandatory ethics, whatever, that somehow we are employees and we have to monitor each other. No, we are responsible for ourselves. We make choices and we deal with it. Those people who are in trouble with the law have violated the law. Those people who are using their computers for things that they are not supposed to use them for, if they get in trouble, they get in trouble. Let them deal with it. I don't think that it is a reflection on you, Mr. Speaker, or on the leadership of this House if a member or members are going somewhere where they shouldn't be going, or doing something they shouldn't be doing. It is the same way that I don't feel that it is your responsibility or right, to monitor our individual and proprietary nature of our work. For those reasons, my vote is registered as a no."

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

Representative Souki continued, stating:

"Yes Mr. Speaker, I wish to speak with some reservations on this. It is no reflection on you Mr. Speaker, but I wish to accept the words of the Representative from Kona as my own. Thank you."

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

"Clearly in the testimony and in questioning during the public hearing, the Office of Information Practices specifically said that anyone can go into any Representative's office and request to see what is on their computer files. This bill merely puts a formal process in place and includes both sides of the aisle in determining how this will be done. Thank you Mr. Speaker."

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

"Just in reference to the committee report itself, and again, to who it is that is standing in opposition to this bill. It includes the Hawaii State Ethics Commission, and I would just point out that there already many measures and laws and regulations to deal with the inappropriate use of State equipment, including for campaign purposes, business purposes, or personal use.

"With regard to outside contamination that may infect the system which was referred to by the Majority Leader, there is software that deals with that, and will filter out misuse. That is really not the issue here. But at any rate, it was important for the Body and the listening audience to recognize who it is that is standing in opposition to this. Thank you."

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

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

"Basically what we are doing here, Mr. Speaker, is that we are breaking new ground. This is not being done in many jurisdictions and in other states. We are looking at a way where we can police ourselves. Whether we are arguing over what is the definition of 'employee' or 'elected official' or whatever the case may be, we are attempting to take our own situation here, as wards of the State, paid for with taxpayers dollars, our offices, these Chambers, or what ever the case may be, our computers, and we are trying to attempt to keep ourselves in check and make sure we do the peoples' work. If there are problems with this, in terms of constitutionality, I am sure it would come up. But at this stage, this is our effort to show the people that we are accountable, and that we can police ourselves, and if there is wrongdoing Mr. Speaker, we will find it. Thank you very much."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2612, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT PROPERTY," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs with Representatives Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Marumoto, McDermott, Meyer, Moses, Ontai, Stonebraker and Whalen voting no, and with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 286-02)

recommending that H.B. No. 2523, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2523, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY MEDICAL SERVICES," passed Second Reading and was referred to the Committee on Finance with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Saiki, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 287-02) recommending that H.B. No. 2527, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2527, entitled: "A BILL FOR AN ACT RELATING TO SAFETY INSPECTION FREQUENCIES FOR REGULATED EQUIPMENT," passed Second Reading and was referred to the Committee on Finance with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representatives Saiki and Ahu Isa, for the Committee on Labor and Public Employment and the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 288-02) recommending that H.B. No. 2835, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2835, entitled: "A BILL FOR AN ACT RELATING TO MANDATED HEALTH COVERAGE REVIEW," passed Second Reading and was referred to the Committee on Finance with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 289-02) recommending that H.B. No. 2731, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2731, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Hale rose to clarify her remarks made on Standing Committee Report No. 271, stating:

"Mr. Speaker I would like the Clerk register an aye vote for Standing Committee Report 271, H.B. 2444, which was my subject of my previous speech but it was the wrong bill. The remarks that I made on that bill apply to this bill."

The Chair addressed Representative Hale, stating:

"Representative Hale, what page are you on?"

Representative Hale responded, stating:

"On page 5 right now. I am talking about Standing Committee Report 289-02. This is the bill that I thought I made the speech on when I spoke on Standing Committee Report 271 back in the beginning. I was confused, so I am asking the Clerk to correct the record. I am voting for 271, but

I am registering a no vote on 289 for the reasons that I outlined in my previous speech."

The Chair "so ordered" and directed the Clerk to note that Representative Hale votes yes on Standing Committee Report No. 271-02 and H.B. No. 2444, HD 1, and votes no on Standing Committee Report No. 289-02 and H.B. No. 2731, HD 1.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2731, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR CENTRAL OAHU RECYCLING AND DISPOSAL FACILITY, INC.," passed Second Reading and was referred to the Committee on Finance with Representatives Hale and Meyer voting no, and with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representatives Kahikina and Arakaki, for the Committee on Human Services and Housing and the Committee on Health presented a report (Stand. Com. Rep. No. 290-02) recommending that H.B. No. 1870, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1870, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

Representative Lee's written remarks are as follows:

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

"Pregnant women face significant barriers to accessing prenatal care in a timely manner, especially when they have no health insurance. For a person or family on a limited income, having to pay out of pocket, \$65 to \$80 for a prenatal visit (plus any other recommended diagnostic and screening tests) will mean less money for food and other essentials for survival. Waiting up to 4-6 weeks on average for Medicaid to process an application just to establish eligibility for Medicaid also sets up an unnecessary barrier to prenatal care.

"Prenatal care is in the best health and financial interest of mother, baby and society. Providing early prenatal monitoring and care reduces the high treatment costs associated with late to no prenatal care that Medicaid often pays in the end. This measure is preventive in nature and will save money in the long run.

"Over 25 states in the United States already offer presumptive Medicaid eligibility for pregnant women. Hawaii must join them in establishing this measure as a state health policy to protect our residents and our future generations.

"This bill will save money in the long run. One high-risk baby born to a mother with no prenatal care costs millions. This bill is a preventive 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. 1870, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PRESUMPTIVE MEDICAID ELIGIBILITY FOR

PREGNANT WOMEN," passed Second Reading and was referred to the Committee on Finance with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 291-02) recommending that H.B. No. 2103, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2103, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

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

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

"We are not sure that the cost that this bill is going to occur. The Department of Human Services is opposed to this measure and we are waiting on a cost analysis from them on it. I just hope that it is dropped, if the cost analysis is negative, in the next committee, so with reservations."

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

"I note that this is going on to Finance and I am also concerned about the cost, so with reservations."

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

"My concern is about the ever rising cost of health care and I think that this will have that affect. 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. 2103, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HUMAN SERVICES," passed Second Reading and was referred to the Committee on Finance with Representatives Fox and Meyer voting no, and with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 292-02) recommending that H.B. No. 2696, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2696, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DETERRING AND PENALIZING FINANCIAL ABUSE OF ELDERS AND DEPENDANT ADULTS," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representatives Hiraki and Arakaki, for the Committee on Consumer Protection and Commerce and the Committee on Health presented a report (Stand. Com. Rep. No. 293-02)

recommending that H.B. No. 2834, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2834, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"This is the first of several measures this Session, introduced on behalf of the public who need the Legislature to fight for fair pricing of essential goods and services. This first measure, H.B. 2834, will help to provide relief to the estimated 200,000 people of our State who do not have drug insurance and therefore must pay full retail price for prescription drugs.

"Let's look at the facts when evaluating this measure. According to the American Association of Retired Persons, AARP, drug price inflation exceeds the general inflation rate. Between 1995 and 2000, prescription prices rose at over 1.5 times the rate of general inflation. Prescription drug spending is rising rapidly. Prescription drug spending per American rose at an average annual rate of 9.4% between 1990 and 1999.

"Between 2000 and 2010, prescription drug spending per American is expected to rise at an average rate of 11.2% per year. Prescription drugs account for the single largest component of older, Medicare beneficiary out-of-pocket spending.

"Finally, profits as a percent of revenues for the pharmaceutical industry has been more than five times the median rate for all Fortune 500 firms in the late 1990s. These are the facts.

"Because of the escalating of prescription drugs, AARP has made this issue their number one issue this Session. This bill Mr. Speaker, will allow the State to set up the Hawaii Prescription Drug Discount Plan for those without drug coverage. In essence the State will act as a conduit to pull those without drug coverage into a form of a buyers' club for the purpose of negotiating discounted, bulk purchasing prices from drug manufacturers.

"Because of their large pool, HMSA and Kaiser negotiate about a 34% to 40% discount on drugs for their members. By passing this measure, we hope for similar savings for anyone who is interested in joining this Hawaii Prescription Drug Plan.

"Mr. Speaker passing legislation to establish the Hawaii Prescription Drug Plan is the right thing to do. It gets prescription drugs into the hands of the people who need them, at cost that they can afford. Thank you Mr. Speaker."

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

"I really would like to see lowered costs for pharmaceutical drugs. I think we all do. We just need to find the best way to do it. The Department of Health had concerns on this bill. They submitted written testimony, however they did not show up. I had several questions that I had wanted to ask them and I still do not have the answers.

"One of the things that was blank in the bill was the cost of staff and the number of staff this program would require, and the cost of the program. How much would be appropriated to purchase these drugs? I don't know exactly, how this program will work. What drugs will be available? Which drugs will not be available? What do you do with leftover drugs? Do you end

up paying for a lot of drugs that will not be used? Also I do not know what the effect of this measure is on current drug insurance programs. Would people drop that to come into this buying club?

"Lastly, I know that some pharmaceutical companies are establishing their own programs to offer drugs at a discount for Medicare patients. I noticed that Pfizer is charging \$15 per prescription, but I don't know which drugs will be available under this plan.

"This proposed program will put the State in the drug buying business and I still have a lot of questions that need answering. I will be watching this bill as it progresses toward the end of Session. Thank you Mr. Speaker."

Representative Gomes rose in support of the measure with reservations, stating:

"I rise in support, but with some pretty serious reservations. I note that the committee report does a pretty good job of explaining to us how terrible and bad the prescription drug companies are. That may very well be the case, and we do need to deal with some of the overpricing, or what appears to be overpricing issues, and the cost of these items, and deal with that effectively. But we have the same problems with fuel. We have the same problems with a lot of the commodities that we deal with.

"My attention was peaked when the Chair of Consumer Protection was speaking. At the beginning of his speech, he talked about the need for the Legislature to 'fight for fair pricing'. The word 'fight' concerns me because it seems we, as a legislative body, have fought the marketplace many times in the past. Generally what happens is that fight comes back and backfires. Generally the regulatory efforts that are effectuated on the marketplace seem to end up hurting those the regulations are supposed to help.

"I would also make reference to the quote on page three of the committee report, it quotes Justice Louis Brandeis, and if I may Mr. Speaker, it says:

To stay experimentation in things social and economic is a grave responsibility. Denial of the right to experiment may be fraught with serious consequences to the nation. It is one of the happy incidents of the federal system that a single courageous state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.

"I think that it is an excellent quote, however, this particular experiment, I think, is fraught with too many negative consequences down the line and it is not the experiment we want to effectuate on our marketplace at this time.

"Finally I would point out for the members, and for the listening audience, that despite the overpricing, or the high pricing, or the high profits that the companies make, there are many elderly and retirees, and several pension funds that made a very handsome return on their investments in the pharmaceutical industry in the last several years. I would note that that ought to be a consideration when we try to regulate the marketplace, and again, trying to help those that seem to be hurting the most. For those reasons, Mr. Speaker, I stand in reservations."

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

"Just very briefly, this bill is one of many bills that go to the philosophy of what you believe government should be. Do you

believe that government should be large and expensive? Do you believe that regulations can solve every social ill that faces our society? Or do you believe that government should be narrow and limited and go after only what it can truly solve.

"I have a number of problems with this particular measure, and I will save most of my comments for Third Reading and other bills coming up later on. But because I believe, in my own personal political philosophy, that government should be limited, I am opposing this measure. Thank you."

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

"I am in strong support. I've been going through the committee report and I'd really like to congratulate the committee for its hard work on this issue. I know that it is a very controversial one because it moves Hawaii, really, to the front, again, in the area of healthcare for its people. I hope members can take note of these three points that I would like to share with my constituents when I go home and tell them about, hopefully, this successful Session, and this would be one of the hallmarks.

"I make these three points. Number one. The pharmaceutical industry, which spends more than any other industry on consumer advertising in the United States, is also the most profitable, and that ties into to one of the prior statements made by my colleague from Waimanalo.

"Number two. Profits as a percent of revenues from the pharmaceutical industry have been greater than four times the medium rate of all Fortune 500 firms in the late 1990s; and 18.6% of revenues as compared to 4.5% for all Fortune 500 firms in 2000.

"And third Mr. Speaker, 14% of pharmaceutical revenues are spent on research and development, the same amount spent on marketing and advertising. Thank you Mr. Speaker."

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

"I'd like to add for a few comments in response to some of the concerns raised by those who are voting with reservations. Let me try to address some of those. First, there is the concern that the State is going to be engaging in this 'big brother,' big government type of program. Well, the fact of the matter is that we are already in the drug business. The Medicaid program in our State spends about \$85 million for prescription drugs for those who are at the federal poverty level. I hope that no one is suggesting that we just do away with the Medicaid program because, after all, it is a government-run program and so is Medicare, by the way. So I hope people are not saying that we do away with that and let the free market take care of these people.

"Simply, there are no leftover drugs, just as there are no leftover drugs in the Medicaid program. All this is, and all we are suggesting, is why shouldn't the 228,000 uninsured residents of our State, who are paying full premium prices, which by the way, none of us pay because we are fortunate to have a medical plan that has a co-payment. For these people, why shouldn't they be the beneficiary of bulk buying? That is no different than what Costco does. That is no different than what HMSA or Kaiser does. And that to me, in my opinion, that is very American.

"That is how the free market should operate. If you go in and buy something in bulk, you should get the result in a discount. We want to offer that to the consumers of the state. People talk about the drug industry. I am not here to demonize the drug

industry. There are 350 drug companies in this country with 2,500 different drugs you can find at the average drug store. Many of these companies offer the kind of program that Pfitzer just came up with. But look at the Pfitzer program. There is a \$15 co-payment for drugs that they themselves, manufacture. For a couple with \$24,000 or less in income, and for a single person \$18,000 or less. That is a great program, and I applaud Pfitzer for initiating such a program.

"What is the downside of such a program? The average person out there over 65 is uninsured, is taking roughly ten maintenance drugs from five to six different companies. So what we are telling that person is why don't you apply to five or six different companies. You may have to renew your prescriptions on a monthly basis, on a yearly basis, do all the paperwork. Some of the drugs will come to your home, some of the drugs will go to your doctors and you have to pick it up. And lastly, and most importantly, these companies can end this program at any time. Unlike this program that we are proposing here, the State will have a commitment to offer all drugs that can be negotiated with the manufacturer to get a discount.

"People ask if all drugs will be available? That is not our call. It is really up to the drug companies. If they want to negotiate a price with the State to offer their drugs at a discount, those are the drugs that will be in this program. We have no control over that. People should read the bill. I know sometimes we don't read bills and so forth.

"On page 8, lines 10 and 11, 'Each retail pharmacy voluntarily participating in the Hawaii Rx program...' Again, each pharmacy chooses to join this program or not.

"On page 5, lines 10 to 12, 'Any prescription drug manufacturer that sells prescription drugs in the state may enter into a rebate program...'"

"Mr. Speaker, why is this access so important? I think we all know that there are many people out there who have to choose between putting food on their table or buying lifesaving drugs. Or they split their pills, or they take it every other day. In the state of Vermont, they estimated that 7,000 of their residents show up in the emergency rooms every year, because they are under-medicated or have not taken their medication at all, because they simply could not afford it. We know..."

Representative Magaoay rose to yield his time, and the Chair "so ordered."

Representative Takumi continued, stating:

"We know that there are residents in our State who are in that same category. It is estimated that that is roughly 20% of our population. I mentioned that number, 228,000. Let me put a human face on that. We had a town meeting in Pearl City several weeks ago. Mrs. Ruth Silva from Waianae came and she talked about her story. She pays \$650 a month for medication for her and her husband. She considers herself fortunate because last year she was paying \$800 a month. Now fortunately, or unfortunately, depending how you look at it, Mrs. Silva in her retirement income, makes too much to qualify for Medicaid, and she is too young to qualify for Medicare, even though Medicare offers very little drug benefits for most of its people.

"So she is in that gap-group that this program will work for. Now granted, she is paying \$650 a month, a 20 to 30% discount may not be all that much, but in my book, that is something that we should do for her because she is paying a lot of money for drugs. And again, for most of us, we would probably end up paying \$30 to \$40 a month instead of that.

"Look at the high prices. For example, your doctor may prescribe Zocor to treat your high cholesterol. If you live in Canada you pay \$43.97. You go to Longs, you pay \$120.95 for that same medication from the same company, same dosage, and the same number of tablets.

"Take Prilosec, for stomach acid problems, which I may need right after this. If you live in Mexico, 30 capsules will cost \$29.46. You go to Straub Clinic, you pay \$137.55, a 467% difference. There are reasons for why these drug prices have this kind of difference. But the primary reason is that Canada negotiates for the entire Country. When they go to Merck or when they go to Pfitzer, or when they go to GlaxoSmithKline they say, 'What kind of deal can you give us for our whole country?' I say why can't we try to do this on a more modest scale, but at least in a significant way, for the uninsured in our state.

"Lastly Mr. Speaker, you know there have been a lot of rhetoric, a lot of words. Words come easy. Talk is cheap. To do is very hard. Deeds are very difficult to come by. I think we have a real opportunity to do what is right, to do what may be difficult. But don't do it for me. Do it for Mrs. Ruth Silva and the other 228,000 in our state. Thank you."

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

"I would like to look at it more in Finance. I just had to make some comments on what I heard earlier. The talk about the pharmaceutical industry, which spends so much and yet is so profitable. I think maybe it is because they have a good product. They have a product that people want because it keeps people alive. Maybe that is why the cost is so high, because people are living so much longer. But just because they make a profit and spend money on advertising, it doesn't mean anything. It just means that people want their product, and they go out and buy it. I use a lot of medicine and I am glad to have it. Otherwise I wouldn't be here today to give you a hard time, Mr. Speaker. So I appreciate the pharmaceutical industry. Thank you."

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

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

"I just wanted to clarify that one of the drugs that I think the Representative from Pearl City talked about, Prilosec, just as an example so people realize. Prilosec is going to be losing its patent pretty soon so you know that the drug manufacturer needs to think about how are they going to start selling this. So what they did was create this great drug called Nexium, and you know what? Nexium is almost the exact same thing as Prilosec. All they did was they got the molecular formula and flipped it over. So it is basically the same thing.

"You talk to any pharmacist, you talk to any physician and they will tell you that efficacy it is actually the same. Actually there are worst side effects with Nexium. I don't know if any of you has been watching television lately but there are a lot of Nexium commercials. Tons of people are standing on the cliffs. You know, acid reflux problems destroying my throat, all these kinds of stuff. These are the kind of evils that we are talking about. They are spending the same amount of money on research and development that they are spending on advertising and marketing.

"So for those reasons I think this bill is a good thing. It is trying to really look at what the pharmaceutical companies are doing. When it comes to the manufacturers that don't participate in this program. If you choose not to participate, and it is entirely your choice, all that happens is your drugs get placed on a 'prior authorization' list and that doesn't mean that you can't get those drugs. All it means is that if the physician wants to prescribe a certain drug, if it is on the 'prior authorization' list, it is free to go. If it is not 'prior authorized,' they have to go through an additional step of getting the approval by the department or whoever, because there are certain drugs that have efficacy for certain conditions.

"Another good example is Celebrex. People love Celebrex because they think it is a great painkiller. It is the same thing as ibuprofen, the only difference is for people, such as my mom who have chronic rheumatoid arthritis, who need to take it every day, it is good because it doesn't upset your stomach. But for people who have acute pain or have an injury, they can take ibuprofen. But no, they go in and say they want Celebrex because they saw it on some commercial or saw it in some magazine. The doctor really doesn't care. The doctor says, 'Here, take your Celebrex. I will write you a prescription.' But you know who pays for it? The patient. So it is for those reasons, I think that we really need to look at this a lot more closely and I hope those who have reservations really study this bill. Thank you."

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

Representative Gomes rose to respond, stating:

"Just real quick, in rebuttal Mr. Speaker. With regard to the previous example of the high-priced pain reliever. I think what it does is offers an opportunity to the lower cost pain reliever marketer to market their product. They can let the market know that, 'Hey, our product is just as good if not better, and it costs a lot less.' I think that is how we resolve that issue.

"With regard to the choice issue, that the manufacturers can choose, I think that is kind of like the choice that the states are given from the federal government. If they want to participate in the Federal Highway Program, they can choose to pass the seatbelt law, and if they don't, then they forsake hundreds of millions of dollars for highway improvements. 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. 2834, entitled: "A BILL FOR AN ACT RELATING TO PRESCRIPTION DRUGS," passed Second Reading and was referred to the Committee on Finance with Representative Djou voting no, and with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 294-02) recommending that H.B. No. 2618, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2618, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"This bill allows consumers to assign reimbursement for dental services to a service provider who is not a participating provider. It creates a new section of law, which essentially, tells, mandates, that the insurance company pay a non-participating member directly, rather than having the insured pay them and then be reimbursed.

"This is where we are really getting into the insurance industry, and dictating how things are done. Somehow it seems appropriate that if you are not a participating provider, you don't get treated the same as the participating provider. But here we are looking out, supposedly, for the consumer, but at the cost of meddling in the medical insurance business, and I don't approve of that. 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. 2618, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Second Reading and was referred to the Committee on Finance with Representative Meyer voting no, and with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representatives Hiraki and Arakaki, for the Committee on Consumer Protection and Commerce and the Committee on Health presented a report (Stand. Com. Rep. No. 295-02) recommending that H.B. No. 1761, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1761, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"Mr. Speaker, this is the one of the very many bills that represents an expansion of our State government in numerous areas of the sectors of our economy. I do not believe that this is the right direction that we should be taking, as a public policy. I believe that if you want to attack the rising cost of health care here in our state, we should be eliminating the general excise tax on medical services.

"In terms of the health care regulation area, in that sector, it is my position that we should be increasing competition in the health care industry. The way we should be doing that is by eliminating taxation on health insurance companies. Right now, here in the state, under law, mutual benefit societies are exempt from the general excise tax, as well income tax. That is why pretty much every health insurance carrier in our state is either a mutual benefit society or a non-profit.

"For-profit corporations, which could offer competition here in the Hawaii market avoid the Hawaii market because of the tax exemption. We should extend that tax exemption to those companies to bring them in to the market to help force prices down, not through dramatic expansion of the size of state government and regulations. Thank you."

Representative Fox rose in opposition to the measure and asked that the remarks of Representative Djou be entered in the Journal as his own, and the Chair "so ordered."

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

"Mr. Speaker, this is another measure introduced on behalf of the public who needs this Legislature to fight for fair pricing of essential goods and services. Our State has earned a nickname of 'Hawaii-opoly' because so many of our essential goods and

services are delivered in a marketplace where there is little or no competition. The consumers in Hawaii have become accustomed to regulated monopolies from our public utilities, which provide essential electricity, water, natural gas, and telephone service. Alarming, to the detriment of Hawaii consumers we have a growing number unregulated monopolies and oligopolies.

"We currently have one HMO health plan, one PPO health plan, and apparently, soon we will have only one inter-island airline carrier. We are also finalizing the settlement terms of the State's price fixing suit against the oil industry, that charged that one company, one company Mr. Speaker, dictated the price of gasoline in Hawaii.

"This measure, H.B. 1761, allows the State Insurance Commissioner to oversee health insurance rates to ensure that rates are not excessive or discriminatory. Let me begin by saying that most of us have great faith in the marvel of a free competitive market. A competitive market place efficiently allocates goods and services thereby improving the welfare of the people. In such a vibrant, healthy, environment, government rule must be limited. However in markets where there is little or no competition, Mr. Speaker, it becomes incumbent on this Legislative Body to serve as a 'watchdog' to protect against companies using their unchallenged status to dictate unreasonable prices, terms, and conditions.

"Mr. Speaker, several years ago this bill would not have been necessary. At that time, premiums were stable because numerous health plans were in the marketplace. Recently Straub, Queens, HMAA, Kapiolani, they were all forced out of the health insurance market, leaving only one major PPO plan controlling about 73% of the market. And one HMO plan controlling about 21% of the market.

"Since these now defunct companies have left the market place, the two remaining major players have raised premiums for small businesses by almost 20% in just over two years. Other businesses have been hit worse. For example a hotel on Molokai was just informed that its premiums will increase by a whopping 33%. As reported in this morning's paper, Mr. Speaker, these rates to small businesses were increased during a time when the net income of the State's largest health insurance company astoundingly tripled its profits from the year before. I ask you my colleagues, is that fair?

"I do know that if we allow this trend to continue, the businesses that form the backbone of our economy will be forced to close shop forever. What is being proposed in this bill should not be alarming because according to the insurance commissioner, 48 states in this Nation allow for some form of health insurance rate oversight. What is alarming Mr. Speaker, is that we are the only state whose health insurance market is dominated by just one health insurance plan. Yet our people are defenseless against excessive pricing because we are one of only two states that do not provide any rate oversight.

"Members, the concept of rate oversight, as set forth in this bill, is really nothing new. We provided this authority to the Insurance Commissioner for workers compensation in 1995, automobile insurance in 1997, and homeowners insurance in 1998. Despite the claims of its opponents, the 'sky did not fall down.' Instead we saw average premium reductions of 40%, 35% and 25% respectively. These savings, Mr. Speaker, were refunded directly to pocketbooks of our people."

Representative Hamakawa rose to yield his time, and the Chair "so ordered."

Representative Hiraki continued, stating:

"Simply put, for the opponents of this bill, if there is nothing to hide, there is nothing to fear. This bill is about premium disclosure, Mr. Speaker, and not rate regulation. Without this bill, we will never have any information to know if the rates that consumers are being charged are fair. Admittedly, Mr. Speaker, this issue is quite complex, but I am confident that this bill will benefit from further vigorous debate. So I have amended this bill to delay the effective date to allow this measure to continue on to the Finance Committee. I humbly ask that the members continue dialogue on this issue on behalf of the people of this state who deserve fair pricing of essential goods and services. Thank you."

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

"The previous speaker keeps alluding to fair prices. I think most of us in this building know that medical cost has been rising throughout the country, no matter what state you live in, on a regular basis. I don't think we have any reason to think that we are not being charged fair prices. We have to take a look at what we ourselves have done in this building.

"Just since 1998, we have passed mandates, new mandates, at least 13 of them, for the health care providers to provide. The more things you ask them to do that were previously outside of the scope of medical care, causes more utilization and drives up the cost of medical care.

"I don't think that there is any question that this bill does ask the Insurance Commissioner to regulate the rates for health care. Right now he has the power, under the existing law, to look into any of the books of these two health insurance companies. It just seems like we are moving again into the direction of regulating everything that we can get our hands on. It is scary to me anyway, and I don't think this is in the best interest of consumers. That is why I will be voting no. Thank you."

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

Representative Jaffe rose and asked that the Clerk record a no for her, and the Chair "so ordered."

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

Representative Case continued, stating:

"I would like to incorporate by reference the comments of the Chair of Consumer Protection and Commerce Committee, and add a few additional points. I think that what is before us today in these and some other bills is the basic question of regulation in Hawaii today.

"What are we regulating and why? There are probably three basic reasons to regulate that we are covering in Hawaii today.

"The first is the basic concept of protecting the public, public safety, true public safety in purposes of regulation. I think that we can all agree on that. I think that the question here is where we get into regulation that goes beyond that purpose and becomes excessive and burdensome in its application. We certainly have our problems there, and I think that we need to be working on those problems.

"A second area is where we use regulation to protect

our principal problems in Hawaii, where we are essentially using regulation to protect the status quo and prevent the entry into the market. We have problems there too. Ground transportation is a prime example.

"A third area, that is a very difficult one which we are debating here on the floor here today, is the use of regulation to protect against the increasing lack of competition in certain markets. Where we have allowed monopolies to grow up or where monopolies have grown up as a function of the market itself, or sometimes a function of what government has been doing. We are certainly dealing with that problem in this bill. So the key question to me is, do we in fact have a monopoly or a quasi-monopoly situation which requires us to step in and regulate in order to protect the public?

"I don't trust monopolies. I don't believe monopolies are good. They haven't proved to be good in the course of our history. And where we have no choice except to submit to the monopoly and to regulate, we are perfectly within our rights to do so.

"In this case I think we are facing that situation. We effectively have a situation where power and control over the health care delivery system is incredibly centralized, and where in my own view, there is no realistic opportunity, even given the efforts cited to by the Minority Floor Leader, that we will, at anytime in the future, see a situation where we will have a competitive market and therefore, we have to step in and deal with it right now because of the broad impact that it has on our lives.

"This bill has two components. One is disclosure and the other is oversight. Contrary to the views of the Representative from Laie, in fact, the insurance companies are not required to disclose all information having to do with this basic concept, which is the relationship between the cost of the delivery of the services and the premiums charged. That was confirmed several times in our hearing by the Insurance Commissioner. Yes, they have to disclose information on their basic solvency, but it is not the information that we seek, or that we should be entitled to see in terms of whether premiums are excessive. Frankly, after hearing the testimony from the companies, I came to the conclusion that given the objections to the production of that information, 'me thinks thou dost protest too much.'

"Rate oversight is different from rate regulation. In the instance of regulation it is the government, through a Commission setting the rates themselves. Rate oversight is a form of regulation, but it is less onerous. It says to the companies, 'You come in. You propose what you think that rate should be and we will take a look at it and say yes or no. We are not going to do it for you so exercise some self-control over your rates before you come to us. If they are fair then no problem. If they are not fair, then we get to say something about that.' I think that is fair under the circumstances.

"So I think that this is one of the situations that unfortunately is necessary and the direction that we have to go in. It is the least onerous form of going in that direction. But my basic policy conclusion is that we have to go there. Thank you."

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

"I would submit that the problem that we are having, and what we are trying to deal with is the result of too much rate regulation, and that the policies that have been effectuated have not gone far enough to encourage a competitive marketplace. Whether we are talking healthcare, whether we are talking

about prescription drugs, fuel, transportation, etc., and we seem to be compounding the problem with additional regulation.

"Again, I think it may be that this particular measure is needed as a short-term issue, but I don't see anything on the table, anything moving forward at all that helps to create a more attractive market to do business in. Measures to eliminate the monopolies that we seem to be troubled by, like the Hawaii Prepaid Health Care Act. Many point to that as the source of our problems that we face now. Whether that is the case or not still remains to be debated.

"With regard to some of the defenselessness that some may feel they face with regard to this, again, we are certainly not defenseless against the 'big bad insurance companies' or free market system, and we can take steps to control the marketplace in ways that create more incentives, more competition, and where maybe the companies will make a good buck. That's fine.

"Ultimately the consumer will benefit by a lower cost of living and lower prices, and that is essentially what we need to go for. So for those reasons, I think this measure is not helping us. I don't see it, and so at this point, I will vote against it. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1761, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Second Reading and was referred to the Committee on Finance with Representatives Djou, Fox, Gomes, Jaffe and Meyer voting no, and with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representatives Morita and Hiraki, for the Committee on Energy and Environmental Protection and the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 296-02) recommending that H.B. No. 1770, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1770 HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"I know that we have done and we still have more bills expanding regulations. I have to stand in very strong opposition to this particular measure. Mr. Speaker, this bill is yet another bill that represents more regulation, more red tape, and more government here in the State of Hawaii. Because I have a political philosophy where I believe in limited government, I strongly oppose this measure.

"Mr. Speaker, observing the floor session for the last twenty minutes or so, observing the bills that we have passed or are going to be passing on Second Reading, one does not have to go too far to see and understand why the State of Hawaii has developed a reputation as a state who is hostile to the entrepreneur, opposed to commerce, and unfriendly to investments. This bill is yet another bill that seeks to expand state government, expand regulation, and make our state more hostile to business. More specifically, to the merits of this particular piece of legislation, Mr. Speaker, it seeks to expand the PUC's regulation of oil companies. I realize that gasoline prices are high and a number of people have concerns with how high gasoline prices are here in this State.

"Mr. Speaker, we already have very strong, good, antitrust legislation on the books that exists, and that can be used and directed to attack problems that maybe, perhaps many people see with the oligopoly, and perhaps the monopolistic pricing in oil and gasoline industries. Again, I understand that there are a number of members of this Chamber who may be concerned that the antitrust concerns have not been adequately addressed.

"We did bring a lawsuit, and we had, in the opinion of many, an inadequate settlement reached quite recently. In either case, first off, if we want to address the problems of high prices of gasoline, the remedy rests in the Judicial Branch of government, with our existing antitrust laws. If you are unsatisfied with the settlement that was most recently reached, the remedy rests in changing who acts as the Attorney General and changing the Chief Executive of the State. In either case the remedy to address these problems rests in the Judicial Branch of government or the Executive Branch of government. Not here with additional regulation in the Legislative Branch, and for all of these reasons, Mr. Speaker, I oppose this legislation. Thank you."

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

"Through this floor debate, which I think is really productive, because it does come down to what your political philosophy is, we heard a lot about the heavy hand of government. But I haven't heard anybody talk about the heavy hand of the multi-national corporations. I think we have to acknowledge that with globalization of some of these corporations are at least as powerful as any government.

"We have to stand up for people who cannot stand up for themselves. The power of these multi-national corporations is surpassing that of governments and they are less concerned with the welfare of consumers than we are. They are concerned with maximizing profits, which is reasonable, but if they can pull it off at the expense of your consumers, they will do that.

"We have to admit that times have changed and we have to not only guard against the political tyranny of government, but the potential tyranny of large corporations. I want to thank the Chair of CPC and the Chair of Energy for having the courage to address this issue. I know it is not easy and I think that the Minority Floor Leader raises some legitimate questions about where the jurisdiction lies to address the problem. We in Hawaii have no way of knowing whether or not our gasoline prices are being set at an unreasonably high rate. It seems as though there is something fishy going on.

"First of all we cannot even get a person from the oil companies to sit and testify about how they derive their prices. This isn't only because of the recently settled lawsuit. It is because they have purposely employed a strategy to create a distance between themselves and their hired representation in the Legislature. One of the key facts that we all must consider when looking at this bill is that Hawaii comprises about 3% of the gasoline consumption for one of the largest companies in the United States, and about 23% of the profits for this company. Again, 3% of the consumption and 23% of the profits. Why is this profit margin so wide? Could it possibly have something to do with the fact that we pay exorbitant prices? I think that it is a legitimate question and it is worthy of debate, and that is the reason for this bill, to force the oil companies to come to the table and justify their profits to the consumers. Thank you Mr. Speaker."

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

"Mr. Speaker, this is a terrible bill and deserving of a no vote. The reason that I am going with reservations is to acknowledge the request of the Chairs as stated in the committee reports. This bill should stay alive as a means to gather pertinent information on the rate-setting practices of the oil industry. I am going to go with the Chairs in their hope and request, but if this bill remains in the end, I will be voting no. Thank you."

Representative Gomes rose to speak in support with reservations, stating:

"Just to echo the comments of the Majority Whip. With regard to the oil companies and their executives, and if in fact they have engaged in a policy of trying to stay away, I would certainly encourage them in the strongest terms that they not do that, and come to the table. They have more to lose than gain by that particular tactic, if that is the case. We need their involvement. We need them engaged in the process."

"Again, I think our overall goal is for the consumer, and to make sure prices are in line with whatever the market will bear, and doing our job to try to lower the cost of living in Hawaii, whatever the prices are, and other taxes in whatever states and other places."

"Also just a comment on multi-nationals and corporations. Yes, they certainly aren't looking out for the little guy that is not their stockholder. But we certainly have a say in how people do business in this state. It is just that the methods that we are employing have come back to hurt us more than have helped. Thank you."

[Note: Representative Gomes later clarified that he votes no on Standing Committee Report No. 296-02 and H.B. No. 1770, HD 1.]

Representative Whalen rose to a point of inquiry, stating:

"Point of inquiry Mr. Speaker. Did I lose my place? Are we still on the Second Reading bills or have we moved to Third Reading?"

"Still Second Reading? Thank you very much, Mr. Speaker."

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

"Mr. Speaker, the reason we are sitting here is because our antitrust laws that have failed us. The reason this bill is before us is because we have not been able to utilize the Judicial Branch successfully to address the situation, which has plagued us for decades. I believe that one of the best things that our current Chief Executive did in the course of his Administration was to bring this lawsuit so that many of these things could be brought to light through the Judicial Branch."

"Let's review the situation with our antitrust laws. Antitrust laws require collusion and actual agreement between companies to set prices. Not only that but they require proof of collusion. My assessment, and I think this will come to light as we learn about this settlement agreement and what happened in the course of the lawsuit, is that essentially collusion could not be proven. And because collusion could not be proven, there was a requirement to settle."

"But that doesn't mean that there wasn't collusion going on. And even if there was not outright collusion going on, you can still have the same effect in the marketplace simply by the tacit understanding of the parties that they will not be competing against each other on the basis of price. I think that the latter is,

at a minimum, what has been happening in our State for decades now."

"We were told for decades that the reason for the high prices was the high costs in Hawaii. If nothing else, the course of this lawsuit has demonstrated that that is false. Cost does not account for the high cost of gas in our state. What accounts for the high price of gas in our state is excessive profits being taken over and above costs. That is the only explanation. That is the only explanation at this point, and anybody that followed the testimony during the court case, and listened to the oil company lawyers try to explain what they had to admit, was an excessive profit margin. A profit margin way above that in any other state in this country because they could do it. That was the explanation."

"Now, what are we supposed to do here? We are sitting here subject to that, all of us in this State, and are we supposed to roll over and say, 'Okay fine, you can do it and so therefore we are going to let you get away with that.' I don't think that we can do that anymore. I think what we know now is the situation as it existed, not as we were told that it existed."

"The only two things we can do about it are to control the price of gas through regulation or compete outright. Compete outright, provide our own facilities, provide competitive facilities. Try to break up the monopolies ourselves. I don't favor that approach. I don't think the State could do a good job of operating those facilities. So I prefer the route of outright regulation."

"I'll tell you one thing. If the oil companies can come in and tell me, and I agree with the Majority Whip's assessments, because I sat in the hearing and saw the insulation between me and the oil companies. I asked the question, 'What are your profits and explain them.' I was answered, 'I am sorry. I don't have that information. I wasn't told that information. Blah, blah, blah ...' I am tired of it."

"At this point, come in and explain it to me and I tell you what, I'll back away from regulation in a second. But until you explain it to me in terms that I and everybody else in this State can understand, I am going down this road."

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

"I am opposed to regulation in almost every form except for when maybe it has to do with the safety of the public. In this case I agree with many of the speakers today that we need to hear from the oil companies. Let them come to the table and explain what happened and maybe they don't need to be regulated. But I don't know that at this point, and I need to hear more on this. I am looking forward to hearing them in Finance, having them come in and tell us why they have the profits they do. Thank you Mr. Speaker."

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

"The PUC came in and said they don't want to regulate the oil companies. The oil companies came in and said they do not want to be regulated. The Majority Whip was talking about exceedingly high profits and high percentage of profits from one of the oil companies here in Hawaii. I am just wondering if this is all having to do with automobile fuel, or maybe it might be aviation fuel. I wish I could have the entire story on that."

"I feel that it is premature to vote for this measure because the oil companies could not answer many questions because they were bound by the settlement. Until all the facts are

opened to the public, they cannot answer questions, so I think we should certainly wait to get more information.

"The Majority Whip also said that the oil companies should get together and discuss these things. If they do, they would be charged with collusion and price fixing, and that would not be good. I feel that the Majority is being very political in going after some of these oil companies. They are big bad targets, easy targets, but I would remind you that there are several brands from which we could choose, and several stations from which we could fill up our tanks. Thank you."

Representative McDermott rose in support of the measure, stating:

"I would just like to say that the Representative from Manoa captured my feelings as well, and as he said, but in a more succinct manner the attorney, in the newspaper when they said, 'why do you charge so much?' He said, 'Because we can.' I think that is why we need to go after them. Thank you."

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

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

Representative Hiraki written remarks are as follows:

"Mr. Speaker, this is another measure introduced on behalf of our citizens who urge this Legislature to fight for fair pricing of essential goods and services.

"This measure, HB 1770, is another 'Hawaii-opoly' bill designed to provide relief to all the commuting consumers of Hawaii, who now pay the highest gasoline prices in the United States. The purpose of this bill is to allow oversight of gasoline rates by the Public Utilities Commission.

"Once again, let me reiterate that most of have great faith in the marvel of the free competitive market. However, where the is little or no competition in a specific market, it then becomes the Legislature's duty to serve as a 'watchdog' to protect against companies using their unchallenged status to excessively price their products.

"As you know, the State is finalizing the settlement terms of its antitrust suit against the oil industry, arguing that gas prices in Hawaii were set at artificially high levels. Details of this agreement, when released along with other relevant documents, will hopefully shed light on the following questions:

"Why does Hawaii have the highest gasoline prices in the United States?

"Why do these prices remain so high, when at the same time mainland consumers enjoy the lowest gas prices in years?

"Why has the wholesale price of gasoline remained roughly the same for the last two years, when the price of crude oil has declined by 50%?

"Why do Neighbor Island prices soar above Oahu prices, even when accounting for the shipping of the fuel to the Neighbor Islands?

"How was one company able to sell only 3 percent of its national volume in Hawaii, yet generate 23 percent of its U.S. profits here?

"Are gasoline prices in Hawaii excessive? At this point, it is too early to know for certain. But I do know that this, along with the following bill, will benefit from further vigorous debate, so I have amended the bill by placing a delayed effective date of July 1, 3000, to allow this measure to proceed to Finance.

"Is this a reasonable strategy? I strongly believe that it is, and others also agree. Allow me to quote from a Star Bulletin editorial, supporting the Committees' recommendation:

The numerous bills before the State Legislature attest to the public's concern about high gasoline prices in Hawaii. Whether any of the measures will emerge as law is uncertain but until information from the State's price-fixing lawsuit is revealed, legislators should keep the issue alive.

"It goes on to say:

It appears that with the settlement, at least some information about the industry's practices will be made public. These filings are crucial because they may contain data from experts who could help this legislative body understand how the oil companies operated and what their costs were in relation to the prices customers were charged. Furthermore, this information could outline how the State could ensure that the oil companies were pricing gasoline fairly.

"It closes by saying:

Until lawmakers see the details of the suit's settlement and review information from court documents, we should keep their options open. This will serve notice on the oil companies, by reminding them that someone is looking over their shoulders.

"I ask that members support continued dialogue of this bill, for our state's consumers, who deserve fair pricing of essential goods and services. Aloha."

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

Representative Yoshinaga's written remarks are as follows:

"Mr. Speaker, I rise to speak in support of the intent of House Bill No. 1770, HD 1, to bring relief to consumers of gasoline who have suffered for too long from the unfair pricing practices of the oil companies who do business in this State.

"Mr. Speaker, I wish to express my reservations on HB 1770, HD 1, a bill to place gasoline price regulations under the Public Utilities Commission.

"While I join with countless Hawaii citizens who recognize that something is wrong with the way gasoline is priced in Hawaii, I do not believe the PUC process is the proper way to address the issue.

"I have asked that more information on the companies selling gasoline in Hawaii be made available to the public. I have asked that better educated consumers be allowed to make market choices first, then failing that, I have asked that a simple formula for benchmarking gasoline prices be enacted.

"I have introduced this session a package of legislative proposals which would address this lack of data and information. These include:

HB 2338: This bill requires each wholesaler of petroleum products in Hawaii to report its earnings to the State on the basis of total gross earnings, total net earnings, and return on capital employed (ROCE). Any company whose ROCE exceeds 15 percent shall pay the difference between its actual earnings and a 15 percent ROCE to a new special fund for Petroleum Overcharges that shall be dedicated to educational programs as requested by the DOE and approved by the Governor. Any report from any petroleum wholesaler may be audited by the state annually, at the wholesaler's expense. All information submitted to the state or used by the auditor will be deemed proprietary and kept confidential. (This is an alternative to the Whalen-Hiraki bill that proposes to set price caps on gasoline. It allows companies to charge high prices, but then forces them to give excess profits to an education fund.)

HB 2335: A proposal that adds a monthly report to the Governor of recommended "fair" prices to the responsibilities of the Petroleum Advisory Council. The rationale behind this initiative is to force the Department of Business, Economic Development and Tourism to provide consumers with some analysis of gasoline pricing information.

HB 2336: A proposal to require the petroleum advisory council to release the excess profitability of Hawaii gasoline sellers versus a benchmark market. This information shall be reported to the Governor, the Speaker of the House, and the President of the Senate and released to the public.

HB 2337: A mandate that wholesale sellers of petroleum products report to the State Attorney General the gross profit and loss statements for the previous quarter. The goal of this proposal is to provide the Attorney General with information to bring any antitrust actions it deems necessary on the basis of these reports. Recognizing that these reports will contain proprietary information, the bill also mandates that the information be kept confidential.

"Furthermore, I believe that these proposals would further promote a healthy debate of this issue and if passed would help this legislative body make the tough decisions it needs to help all of the consumers of this State. I urge this legislative body to look into the merits of these measures that I have introduced this session before it acts to regulate the price of gasoline under the Public Utilities Commission.

"Mr. Speaker, thank you for this opportunity to speak on HB 1770 HD 1."

Representative Gomes rose to clarify his position in opposition to the measure, stating:

"Mr. Speaker, previously I may have made an error in speaking on this measure. I think I spoke with reservations. If you could, please ask the Clerk to register a no vote for me," 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. 1770, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES," passed Second Reading and was referred to the Committee on Finance with Representatives Djou, Gomes, Marumoto and Meyer voting no, and with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representatives Morita, Hiraki and Hamakawa, for the Committee on Energy and Environmental Protection and the Committee on Consumer Protection and Commerce and the Committee on Judiciary and Hawaiian Affairs presented a

report (Stand. Com. Rep. No. 297-02) recommending that H.B. No. 2198, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2198, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

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

"One of the things, again, that we are talking about is gasoline prices and the high cost of gasoline prices. One thing that we are not discussing in this conversation is how much the State charges on fuel which adds to that cost. I know that is one of the measures we tried to recall the other day, and we'll have another discussion about that. But I do think if the State wants to do something immediately to address the high cost of fuel, we can lower the cost that we tax on every barrel of oil that comes in to the State.

"At present, it is my understanding that on a gallon of gas, there is upwards of 55 to 56 cents per gallon in total taxes, state, federal, and county. At least with the State, we can do our share, at least for a finite amount of time to provide buyers and consumers some break on the cost of fuel.

"It is my understanding too, that the Highway Special Fund is enjoying some surplus and we could defer the continued funding of it at the level that we are funding it for perhaps a year. At any rate, the point is we should be talking about the tax we charge our drivers in the same conversation that we are talking about what the fuel companies are charging our drivers. Thank you."

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

"I will just make brief comments and save the rest for Third Reading. Philosophically, I am against government controlling costs of commodities. The oil industry is very complex and I would just leave it at that for now."

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

Representative Yoshinaga's written remarks are as follows:

"Mr. Speaker, I rise to speak in support of the intent of House Bill No. 2198 HD 1 that would bring relief to consumers who have suffered for too long from the unfair pricing practices of the oil companies who do business in this State. The recent unsatisfactory settlement of the State's antitrust lawsuit against the oil companies has done nothing to fundamentally change the way they are allowed to do business. The time for this Body to act is now to safeguard the interest of the consumers of this State.

"However, I am disturbed that the solution that is passing through our House is a simplistic formula that does not account for the complexity of the industry we are attempting to regulate. I agree with the widespread notion that the oil companies have us "over a barrel." I cannot agree, however, that a simple multiplication of some factor by the price of crude oil is the best way to set our gasoline prices. This session, I have again introduced a package of legislative proposals which

would address this lack of data and information. These include:

HB 2338: This bill requires each wholesaler of petroleum products in Hawaii to report its earnings to the State on the basis of total gross earnings, total net earnings, and return on capital employed (ROCE). Any company whose ROCE exceeds 15 percent shall pay the difference between its actual earnings and a 15 percent ROCE to a new special fund for Petroleum Overcharges that shall be dedicated to educational programs as requested by the DOE and approved by the governor. Any report from any petroleum wholesaler may be audited by the State annually, at the wholesaler's expense. All information submitted to the State or used by the auditor will be deemed proprietary and kept confidential. (This is an alternative to the Whalen-Hiraki bill that proposes to set price caps on gasoline. It allows companies, to charge high prices, but then forces them to give excess profits to an education fund.)

HB 2335: A proposal that adds a monthly report to the Governor of recommended "fair" prices to the responsibilities of the Petroleum Advisory Council. The rationale behind this initiative is to force the Department of Business, Economic Development and Tourism to provide consumers with some analysis of gasoline pricing information.

HB 2336: A proposal to require the petroleum advisory council to release the excess profitability of Hawaii gasoline sellers versus a benchmark market. This information shall be reported to the Governor, the Speaker of the House, and the President of the Senate and released to the public.

HB 2337: A mandate that wholesale sellers of petroleum products report to the State Attorney General the gross profit and loss statements for the previous quarter. The goal of this proposal is to provide the Attorney General with information to bring any antitrust actions it deems necessary on the basis of these reports. Recognizing that these reports will contain proprietary information, the bill also mandates that the information be kept confidential.

"Furthermore, I believe that these proposals would further promote a healthy debate of this issue and if passed would help this legislative body make the tough decisions it needs to help all of the consumers of this state. I urge this legislative body to look into the merits of these measures that I have introduced this session before it acts to cap the price of gasoline.

"Mr. Speaker, thank you for this opportunity to speak on HB 2198 HD 1."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2198, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GASOLINE," passed Second Reading and was referred to the Committee on Finance with Representatives Djou and Meyer voting no, and with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Suzuki, for the Committee on Legislative Management presented a report (Stand. Com. Rep. No. 298-02) recommending that H.B. No. 2672, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2672, HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs, seconded by Representative Lee.

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

"I stand in support with one reservation. The reservation is that when I read this, it says that the purpose of this bill is to prohibit political fundraisers in any State facility, which I assume means DAG's property, which includes our schools. We all have fundraisers at our schools. So I assume that this bill says that we cannot have fundraisers at our schools, right Chair Suzuki?"

Representative Suzuki rose to respond, stating:

"Is that a point of information? I will respond. That was the wording of the bill prior to us making those amendments that are now contained in this draft. 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. 2672, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FUNDRAISING ACTIVITIES," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 299-02) recommending that H.B. No. 2709, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2709, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"I don't like special funds, and this is yet another one. We don't need it. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2709, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Second Reading and was referred to the Committee on Finance with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 300-02) recommending that H.B. No. 2653, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2653, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CARE FINANCING," passed Second Reading and was referred to the Committee on Finance with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 301-02) recommending that H.B. No. 2503, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2503, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"I am sorry that I keep on rising on these. I am standing in opposition to this particular measure, Mr. Speaker. This raises additional fees, Mr. Speaker. It was said a long time ago, that the two things that you can always count on are death and taxes. This particular measure gives us both."

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

"Mr. Speaker, I am in opposition on this one. This is a fee increase on those who can least afford it: the dead."

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

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

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

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

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

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

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

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

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

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

Representative Arakaki: rose in support of the measure, stating:

"I know that the cost of living is going up but so is the cost of dying. Seriously, just so that we can see the forest from the trees... I know the Minority doesn't like fees. Basically what this does is for a lot of our vital statistics, the Department of Health is looking at modernizing the recordkeeping. In the State of Hawaii, it is especially important to watch how we keep our records and how we provide access to these records. We need to realize that our records go way back even before Territorial days and so it is a real challenge to try and keep those records straight.

"The vision though is that eventually, we will have a paperless record keeping system, and in fact, we might not even need personnel in the future, if we can set up these programs right. People might be even able to access records over the Internet. But there has to be a level of protection afforded. So this is something that I think not just the State of Hawaii, but every state is looking at.

"These permits and these records are very important in our personal lives, and I think we have all had experiences of waiting in line, filling out forms and all those things. I think in the end, even though the burden of paying for the improvements has to come from the user, I think all of us in the

end, especially the next generation, will benefit from them. I would like to urge support for these measures. 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. 2503, entitled: "A BILL FOR AN ACT RELATING TO VITAL STATISTICS," passed Second Reading and was referred to the Committee on Finance with Representatives Davis, Djou, Fox, Gomes, Halford, Jaffe, Marumoto, McDermott, Meyer, Moses, Ontai, and Whalen voting no, and with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 302-02) recommending that H.B. No. 1857, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1857, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MENTAL HEALTH, ALCOHOL, AND DRUG ABUSE," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 303-02) recommending that H.B. No. 1901, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1901, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HIV TESTING FOR SEXUAL OFFENSES," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 304-02) recommending that H.B. No. 2201, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2201, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL INJURIES COMPENSATION FUND," passed Second Reading and was referred to the Committee on Finance with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 305-02) recommending that H.B. No. 2468, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2468, entitled: "A BILL FOR AN ACT RELATING TO CEMETERY AND FUNERAL TRUSTS," passed Second Reading and was referred to the Committee on Finance with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 306-02) recommending that H.B. No. 2480, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2480, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"I am with reservations. It is a special fund. 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. 2480, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL BUS FARES," passed Second Reading and was referred to the Committee on Finance with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 307-02) recommending that H.B. No. 2483, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2483, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2483, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Finance with Representative Meyer voting no, and with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 308-02) recommending that H.B. No. 2849, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2849, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"The Superintendent of Education opposed this bill and said it was not necessary. It is \$250,000 out of the general fund that we are putting into the Education Department. They have already been told to cut their budget. I would rather see this \$250,000 go in to the school budget so they would not have to cut the basic things that they already aren't doing.

"I don't have the bill in front of me today, but I remember in the bill, I read to the committee some of the things that they were going to do. They were going to teach them to read, to spell, to do math. I asked the Superintendent, 'Isn't this what

the school system is for anyhow?' I asked whether or not counselors couldn't do this.

"If we need more direction, I would rather see this go into more counselors, which are not available in the schools, rather than more bureaucracy in Honolulu that we, on the Neighbor Islands, are not going to get any advantage of. Thank you."

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

"A no vote for me for the same reasons stated by the Representative from Puna."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2849, entitled: "A BILL FOR AN ACT RELATING TO CAREER AND TECHNICAL EDUCATION," passed Second Reading and was referred to the Committee on Finance with Representatives Djou, Hale, and Meyer voting no, and with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representatives Ito and Saiki, for the Committee on Education and the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 309-02) recommending that H.B. No. 2851, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2851, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

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

"I am expressing reservations because I trust the educational reform direction taken by the Education Chair, but perhaps just don't understand sufficiently how this bill fits into that program. If it is as it appears to be, which is to submit the principals and vice principals to credentialing and licensing by the teacher board, I think that is the wrong way to go.

"I have watched, somewhat with reluctance, the move over the course of years to vest really complete control and licensing of teachers with teachers. I have accepted it. I haven't voted against it. I hope it works out, and I believe that it is working out. But to take principals and put them under the same umbrella, I don't think that is the right way we want to regulate the standards and licensing, and frankly, entry into the working pool of principals.

"So I am hoping that I have misunderstood something. If I haven't, then I would have to vote no eventually. Thank you."

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

"Thank you, Mr. Speaker. I am with reservations on the same measure for the same reason as the Representative from Manoa."

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

"Mr. Speaker, the creation of the Hawaii Teachers Standard Board through Act 104 in 1995 was one of the most important things the State Legislature has done to promote professional standards for public school teachers. As an independent standard board the HTSB ensures that all of our teachers meet certain criteria and it avoids indirect conflict of having the employer, or DOE, certify its employees.

"Mr. Speaker the intent of H.B. 2851, H.D. 1 is to expand the HTSB to include the certification of principals. It is the expectation of the Committee on Education that transferred this important responsibility from the DOE to an independent party who promote professionalism, avoid conflicts of interest, and also encourage more leaders in our community to consider administration education as a career.

"Mr. Speaker, the bill before this Body also amends the name of the Hawaii Teachers Standards Board. It is now called the Board of Professional Practice in Education to better reflect the expanded purview of the Board. I urge this House to support this bill. Thank you."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2851, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TEACHER STANDARDS BOARD," passed Second Reading and was referred to the Committee on Finance with Representative McDermott voting no, and with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representatives Hiraki and Hamakawa, for the Committee on Consumer Protection and Commerce and the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 310-02) recommending that H.B. No. 1825, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1825, entitled: "A BILL FOR AN ACT RELATING TO THE REVISED UNIFORM COMMERCIAL CODE ARTICLE 9 – SECURED TRANSACTIONS," passed Second Reading and was referred to the Committee on Finance with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 311-02) recommending that H.B. No. 2231 be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2231, entitled: "A BILL FOR AN ACT RELATING TO THE AUDITOR," was referred to the Committee on Finance with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 312-02) recommending that H.B. No. 2400, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee

was adopted and H.B. No. 2400, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS," passed Second Reading and was referred to the Committee on Finance with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 313-02) recommending that H.B. No. 2563, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2563, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMPENSATION OF CRIME VICTIMS," was referred to the Committee on Finance with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 314-02) recommending that H.B. No. 2565, HD 1, as amended in HD 2, be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2565, HD 2, be referred to the Committee on Finance, seconded by Representative Lee.

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

"I just have a small reservation on this bill dealing with explosives. I am not familiar with this bill but my understanding is that it puts the explosives under the control of manufacturers, dealers, and users. I am just wondering whether the Fire Department has some degree of control regarding the storage and the quantity of explosives. Just to make sure, I am asking the members of Finance to ascertain that information when it passes through their committee. 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. 2565, HD 2 entitled: "A BILL FOR AN ACT RELATING TO EXPLOSIVES," was referred to the Committee on Finance with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 315-02) recommending that H.B. No. 2110, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2110, HD 1, entitled: "A BILL FOR AN ACT RELATING TO KAHO'OLAWA ISLAND RESERVE," passed Second Reading and was referred to the Committee on Finance with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 316-02) recommending that H.B. No. 2559, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2559, HD 1, entitled: "A BILL FOR

AN ACT RELATING TO THE REPEAL OF NULL AND VOID AND UNNECESSARY ADMINISTRATIVE RULES," passed Second Reading and was referred to the Committee on Finance with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 317-02) recommending that H.B. No. 2507, HD 1, as amended in HD 2, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2507, HD 2, entitled: "A BILL FOR AN ACT RELATING TO REGISTRATION OF DIVORCES AND ANNULMENTS," was referred to the Committee on Finance with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 318-02) recommending that H.B. No. 2353, HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2353, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Finance with Representatives Kahikina, Kanoho, Leong, Pendleton, Rath, Souki, Takai and Thielen being excused.

At 2:25 o'clock p.m. Representative M. Oshiro asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 2:28 o'clock p.m.

LATE INTRODUCTION

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

Representative Chang introduced Mr. Pila Wilson of the Hawaiian Studies Program at the University of Hawaii at Hilo.

STANDING COMMITTEE REPORTS

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 319-02) recommending that H.B. No. 2566, as amended in HD 1, be recommitted to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2566, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE," was recommitted to the Committee on Finance with Representatives Kahikina, Leong, Pendleton, Rath, Souki, Takai, Thielen and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 320-02) recommending that H.B. No. 2315, as amended in HD 1, passed Second Reading and was placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2315, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE OBSTRUCTION OF INGRESS OR EGRESS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Kahikina, Leong, Pendleton, Rath, Souki, Takai, Thielen and Whalen being excused.

Representative Saiki, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 321-02) recommending that H.B. No. 2530, as amended in HD 1, passed Second Reading and was placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2530, HD 1, entitled: "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT INSURANCE APPEALS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Kahikina, Leong, Pendleton, Rath, Souki, Takai, Thielen and Whalen being excused.

SUSPENSION OF RULES

On motion by Representative Lee, seconded by Representative Djou and carried, the rules were suspended for the purpose of considering a bill on Third Reading on the basis of a modified consent calendar. (Representatives Kahikina, Leong, Pendleton, Rath, Souki, Takai, Thielen and Whalen were excused.)

THIRD READING

H.B. No. 2467:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2467, entitled: "A BILL FOR AN ACT RELATING TO NATUROPATHY," passed Third Reading by a vote of 45 ayes, with Representatives Leong, Pendleton, Rath, Souki, Thielen and Whalen being excused.

H.B. No. 1804:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 1804, entitled: "A BILL FOR AN ACT RELATING TO EXPUNGEMENT," passed Third Reading by a vote of 45 ayes, with Representatives Leong, Pendleton, Rath, Souki, Thielen and Whalen being excused.

H.B. No. 2282:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2282, entitled: "A BILL FOR AN ACT RELATING TO AGREEMENTS TO ARBITRATE MADE BEFORE JULY 1, 2002," passed Third Reading by a vote of 45 ayes, with Representatives Leong, Pendleton, Rath, Souki, Thielen and Whalen being excused.

H.B. No. 2310:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2310, entitled: "A BILL FOR AN ACT RELATING TO VENUE," passed Third Reading by a vote of 45 ayes, with Representatives Leong, Pendleton, Rath, Souki, Thielen and Whalen being excused.

H.B. No. 2317:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2317, entitled: "A BILL FOR AN ACT RELATING TO THE JURISDICTION OF THE COURTS," passed Third Reading by a vote of 45 ayes, with Representatives Leong, Pendleton, Rath, Souki, Thielen and Whalen being excused.

H.B. No. 2318:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2318, entitled: "A BILL FOR AN ACT RELATING TO FORFEITURE OF BAIL OR BONDS," passed Third Reading by a vote of 45 ayes, with Representatives Leong, Pendleton, Rath, Souki, Thielen and Whalen being excused.

H.B. No. 2437:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2437, entitled: "A BILL FOR AN ACT RELATING TO FOREIGN PROTECTIVE ORDERS," passed Third Reading by a vote of 45 ayes, with Representatives Leong, Pendleton, Rath, Souki, Thielen and Whalen being excused.

H.B. No. 2049:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2049, entitled: "A BILL FOR AN ACT RELATING TO OPTOMETRY," passed Third Reading by a vote of 38 ayes to 7 noes, with Representatives Auwae, Djou, Gomes, Halford, Marumoto, Meyer and Stonebraker voting no, and with Representatives Leong, Pendleton, Rath, Souki, Thielen and Whalen being excused.

The Chair directed the Clerk to note that H.B. 2467, H.B. 1804, H.B. 2282, H.B. 2310, H.B. 2317, H.B. 2318, H.B. 2437 and H.B. 2049 Passed Third Reading at 2:32 o'clock p.m.

At 2:33 o'clock p.m. the House of Representatives stood in recess until 6:00 o'clock p.m. this evening.

NIGHT SESSION

The House of Representatives reconvened at 7:11 o'clock p.m., with the Vice Speaker presiding.

LATE INTRODUCTION

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

Representative Arakaki introduced advocates for long-term care: Laura and Jerome Manis, Don and Kimi Matsuda, Roland Halpern, George Honjiyo, Bob and Alice Matsuda, Rev. Phyllis Megan, Pat Zukemura, Laura Kodama, John and Sadie Hayakawa, who represent organizations such as FACE, Faith Action for Community Equity, The Kokua Council, The Coalition for Affordable Long Term Care, The Policy Advisory Board For Elder Affairs, and the HGEA Retirees.

Representative Arakaki also introduced from the Executive Office on Aging Marilyn Seely, and long-term care consultant Dr. Larry Nitz; and from the Department of Health Office of Healthcare Assurance, Helen Yoshimi.

STANDING COMMITTEE REPORTS

Representatives Arakaki and Kahikina, for the Committee on Health and the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 322-02) recommending that H.B. No. 2638, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2638, HD 1 pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"Thank you Madame Speaker. May I begin by apologizing. It is not my intention to go against your admonishment, but I am rising in opposition to this particular measure. I recognize that long-term care is a problem in our State. I submitted a bill to offer tax credits rather than provide what is provided in this bill, which represents a hundred million dollar tax increase in our State at exactly the time when our State can least afford it.

"We are in an economic recession. We need economic stimulus, not a bill that is going to suck out monies at \$120 per person a year here in our State. For these reasons, I sincerely hope that we can stop this bill now, and if not, we will stop it on Third Reading. Thank you very much Madame Speaker."

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

"Thank you Madame Speaker, and I would like to speak in support of this very important measure. You know, there is a saying that the only certainty in life is death and taxes. But now, with the advances of medicine and technology, we may have to update that truism to say that most people will certainly reach the century mark in age before facing death, and that much of our tax dollars will certainly be spent on caring for the aged and disabled.

"No one can deny that the life span of people, especially in the US and Asia, has increased dramatically over the past five years. Improvements in medical technology, genetics, and pharmacy will enable people to live past 100 as a norm, rather than an exception. Advances in the prevention, intervention, and treatment of cancer, and cardiovascular diseases and even the aging process itself will make it possible for people to live to 120 and more.

"According to a recent AARP report, the federal government now allocates hundreds of millions of dollars a year in research for genetics and other aspects of the aging process. Dozens of biotech companies funded by venture capitalists as staffed by top-tier scientists now specialize in a new science called 'life extension.'

"On the downside of long life are: 1) the probability that those working today will be living more years in retirement than at work, but also living on a limited income; 2) the probability of living longer, but having to deal with functional impairments; and, 3) the rising cost of healthcare and related services for our older adults, particularly in instances of catastrophic illness and chronic illness.

"The cost of institutional care such as nursing homes, is currently over \$68,000 annually, but is projected to rise to \$200,000 a year by 2020. The prospect of caring for a disabled parent or grandparent who has a fixed or limited income will fall on their children, and even their grandchildren or their great grandchildren. When caring for a frail or disabled elder

becomes too difficult at home, family members will then face a problem paying for institutional care for the nursing-level patient. In most cases this will necessitate the impoverishment of the patient, and dependence on government for payment of skilled nursing level care. After all, how many of us will be able to afford \$200,000 a year for nursing home care?

"To compound matters, demographic data shows that due to the raising of the population, the labor force has changed dramatically over the past 50 years. Where once people in the workforce outnumbered people who were retired 7 to 1, in 20 years it is projected that there may be a ratio of 1 retiree to 2 persons in the workforce. Despite the expected advances in assisted technology to lessen the need for a skilled workforce, there will still be a dramatic shortage of caregivers such as nurses, home health aides, care home operators, and nursing home aides.

"An Executive Office on Aging report on family caregivers cites Hawaii as having the lowest nursing home bed ratio in the Nation; 28 beds per 1,000 persons 65 years and older. This is compared to 61 beds per 1,000 at the national level. Despite the inadequate number of nursing home beds in Hawaii, families of disabled people in Hawaii have been blessed by the abundance of caring families, most notably of the Filipino community who are willing to provide space in their homes and personal care, and what is known as adult residential care homes. However these care homes are being assigned sicker and more disabled patients and many of the younger generations of family members have sworn off any thoughts of continuing the tradition, after seeing and experiencing what the care home operator has to go through. These care homes, as well as adult foster homes, and programs such as: the Program for All-inclusive Care for the Elderly or PACE, Nursing Home Without Walls, adult day healthcare centers, adult daycare, and senior centers provide an array of services and programs along with a continuum that represent a response to the variety of needs of our elderly and disabled.

"Studies have shown that it is not enough to provide health services to the elderly and disabled and that social services..."

Representative Schatz rose to yield his time, and the Chair "so ordered."

Representative Arakaki continued, stating:

"Social services, family support, and senior activities are an integral part of keeping them independent, vigorous, and productive. It should also be noted that programs, such as our senior centers, provide low-cost means to keeping the elderly out of institutional care and from expensive health services. But the problem with an aging population is especially critical for the State of Hawaii and its citizens. Why? For one thing, our healthy environment and lifestyle will mean longer life spans beyond most other states and countries.

"Hawaii has the highest rate of longevity in the nation, and the third highest in the world. According to health trends in Hawaii, the number of older old are increasing dramatically. Between 1990 and 1999, the number of residents age 75 years or older increased by 62%, and the number of those 65 to 74 years of age increased by 13%. We can expect more of the aging boomers from the mainland and other countries to see Hawaii as a retirement paradise. Add to that our customs and cultural values that make it obligatory for families, especially children, to care for parents. More and more families will find themselves conflicted with having to care for an elderly family member while still having to work to pay for the care and support of their own families. An estimated one-third of adults are engaged in providing informal care for a disabled person. I

think that many of us realize that. The average age is 46, and 75% are woman.

"Family care also takes it toll in the workplace. According to the AARP National Caregiver Survey, the aggregated cost of care-giving in lost productivity to US business is \$11.4 billion per year. All we have is anecdotal information, but we know that many productive tax-paying wage earners are forced to choose to quit their jobs or drastically curtail their work hours to care for a family member. We also know, although exact numbers are not known, that there are large numbers of caregivers who end up pre-deceasing a sick family member or needing long-term care themselves because of stress, burnout and depression.

"Despite the fact that most people in Hawaii have family members or know someone who is being cared for at home or in an institution, a recent AARP study survey shows that most Americans age 45 and older, are not familiar with the cost and funding sources for long-term care services. The truth is few of us will prepare for long-term care costs until we find a need for it. The fact that private insurance covers less than 3% of the cost of all long-term care is proof of that. And only 6% of us purchase long-term care plans. Although we may be familiar with the term, few can put a finger on a natural definition for long-term care. According to the Coalition for Affordable Long-Term Care, it is the ongoing help needed when persons become disabled by an illness, accident, or chronic condition. It includes nursing, rehabilitative services, social services, and personal assistance for people who need bathing, dressing, eating, toileting, and transferring from bed to chair. These are referred to as ADLs or activities of daily living. Long-term care may be given in a person's own home, daycare, or in community setting, or in an institution such as nursing home. According to the Coalition for Affordable Long Term Care, 85% of long-term care is provided in the home by families and friends."

Representative Fox rose to yield his time, and the Chair "so ordered."

Representative Arakaki continued, stating:

"As I said, long-term care is provided in the home by families and friends who pay for most of the expense out of their own pockets, and this is who this plan is for.

"While personal costs for families are spiraling, so too is our government costs, with the burden to taxpayers of over a hundred million dollars annually. Cost to families and to government will continue to spiral out of control unless we can establish a comprehensive plan that will ease the financial burden of families and government. Families will continue to be forced to make tough decisions on whether a family member is cared for at home or an institution unless we can offer to make choices that are affordable to the consumer.

"The Joint House-Senate Committee on Financing Long-Term Care, along with First Lady Vicky Cayetano's Ad Hoc Committee on Long-Term Care, met over the past year and have researched the issue and have merged to come up with the proposal. The goal of CarePlus is to provide Hawaii's citizens with an access to long-term care coverage of approximately \$70 per day, for a range of 365 to 450 days, all at an affordable premium of \$10 per month for those over the age of 25. It is hard to believe that for the cost of two plate lunches, less than two movie tickets, and certainly less than a carton of cigarettes or a bottle of good wine, that Hawaii citizens could be the first in the Country to be covered universally by a long-term care plan.

"While we are still working on the details the plan which must be conceptually and actuarially sound before it is established, Hawaii's longevity, along with our culture and tradition of honoring our elders, makes it a perfect setting to lead the nation in providing compassionate, affordable quality care for the frail and disabled elderly and adults. We must show foresight, and courage to establish a system of care, and a caring system, that will provide for those in need. The time to act is now. We owe it to our elders who labored and sacrificed to provide us with a Hawaii that is a special place to live. We owe it to our children and grandchildren so that we do not place the burden of care on them. Now is the time to show the Nation and the rest of the world what it is to have a society and government that honors its elders with care and compassion and aloha. Thank you Madame Speaker."

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

Representative Halford continued, stating:

"I would simply like to add that with the massive increase in medical costs that will come with increased age, we can expect a comparable increase in revenues from our tax on medical services. Thank you."

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

"In respect to your wishes, the Minority Members here will not be as eloquent as the speaker from Kalihi, but we will be much briefer. When we first discussed this bill, the potential bill, it was estimated that \$10 would surely be enough and that would be okay. Before the session, even before the first committee is done, we see an increase already. And the amount is scheduled to be 'ratcheted up' over the next few years.

"It is just not the time, in fact, I question it as the solution. Because as a member of that Long-Term Care Committee, for a period of time, there was a very reasonable solution to give people a tax credit for the premiums they pay for long-term care insurance. We've rejected that, and again resorted back to just making people pay for what we feel they should have, and I don't believe this is proper at any time, but especially now when people are so on the edge.

"It may be less than a carton of cigarettes or a movie, but a lot of people don't even go to that because they don't have the money. Who are we to judge what is the most important things they should spend their money on? Thank you."

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

"I rise in opposition, and I do so with tremendous regret, because what the Chair of Health says is true, and good people have labored long and hard to come up with this solution. And, if there was any broad-based tax, and this is a broad based tax, that I could, in the normal course, support, this would be it. Unfortunately, as the Representative from Kona says, this simply cannot be the time to start down this road, despite all of the urgings that we have had for the long-range consequences of not proceeding now.

"We have to keep our eye focused on our economy for now. We have to accomplish what it takes to get the economy stabilized, to get our State budget situation stabilized. That has to be number one. If we don't take care of that, then many of

the other options that we are pursuing, including those having to do with long-term care, are not possible.

"So when we get those things worked out, and I think we can get those things worked out, I will be the first one to stand up and say that we should do this. But I can't in good conscience do that now, not when we haven't taken care of the business at hand. Thank you."

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

"I will be voting no on this. I sent a newsletter out at the end of 2001 with a questionnaire, and this is one of the questions that I asked my constituents. Of the 160 people that returned those questionnaires, about 78% of them were not interested in having a new withholding tax for this purpose. Thank you."

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

"Yes Madame Speaker, I speak for this bill with some minor reservations. Just as way of background, I am a member and trustee of a long-term care institution, and some years back, they used to run many programs for the elderly. So I am certainly in consonance with this bill and what it will do.

"My concern is that this bill from the Administration, and as they attempt to persuade us to pass this bill out, they are not providing for a 'cost of living' increase for long-term care institutions. And because of that, if they don't provide a sufficient increases for the current long-term care Medicaid recipients, you are going to find a lot of the private and non-profit long-term care institutions closing up, shutting down, and sending the people out on the street. So what we should do is we should take care of that problem first, or concurrently. But until that happens I cannot truly support this insurance when we are not presently taking care of those that are in need. Thank you very much."

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

"I am going to cast a no vote on this measure. I view it more as our federal government's rule than our rule. Thank you."

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

"I am in opposition for the reasons stated by the several other speakers in opposition to the measure. Thank you."

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

"We talked about this for over 12 years. People in the gallery have been looking at it and working on it for more than 12 years. So I think here comes a time, an opportunity, to do something about this recurring and very critical need. Let's do something about it now. Thank you."

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

"Madame Speaker, I support the bill even though, at 84, I wouldn't be able to get any benefits until I was 94, and I hope that I don't live that long. Thank you."

Representative Lee rose to declare a potential conflict of interest, stating:

"I'd like to declare a conflict. I am a registered nurse and I been a registered nurse for 35 years and I have intimate knowledge of this subject."

The Chair ruled, "no conflict."

Representative Lee continued, stating:

"Madame Speaker, I speak in support of this measure. In many ways Hawaii is the envy of the Nation, from our unique location, diverse cultural and unparalleled beauty, to our aloha spirit and strong sense of community. We can be proud of what Hawaii symbolizes. We've earned a national reputation as the Health State. Thanks to our healthy lifestyle, advanced medical care, and sound public policy, we are blessed with the longest life expectancies in the US. But we live in the rapidly changing world and without immediate action, the future of Hawaii's health will receive a terminal diagnosis.

"President Franklin D. Roosevelt once proposed to our Nation that, "We now realize as we have never realized before our interdependence on each other; that we cannot merely take, but we must give as well." The CarePlus program that we are looking at today is a direct result of this philosophy. But with the problems facing our State, we need look to the improvements in the proposed CarePlus program to assure a more secure future for our State, our loved ones, and ourselves. Without legislative action on this issue this year the consequences to Hawaii residents maybe devastating.

"Three primary consequences we will face are economic uncertainty, major inadequacies in the long-term care network, and loss of confidence from the public. The first is economic. In the fiscal year 2001, the taxpayers in the State of Hawaii provided about \$200 million for Medicaid long-term care services, and nearly \$6 million more for administrative costs. That is \$200 million for Medicaid. If CarePlus is not enacted, taxpayers can expect to pay at least \$80 million more over the next seven years for additional Medicaid services. And you are worried about \$10? Federal programs such as Medicaid are increasing the states' tax liability. These added costs do not bode well for a federal program that is seeking ways to curtail increases overall.

"The second consequence involves our caregiving network. Providing quality long-term care for Hawaii's residents is a noble challenge that we should take on energetically and proactively. Caregiving is already a major challenge, and given a rapidly changing world, the caregiving network will face increasing strains in the future. I know, believe me. This network includes family caregivers, as well as those paid workers. Currently Hawaii's residents experienced higher rates of long-term care needs at every level, than any other state. Who is caring for these people? Statistically speaking, it is not you personally, it is the person sitting on your left or on your right. Nearly one out of every three Hawaii State workers is a caregiver to someone who needs long-term care.

"I need to tell you that in my community, I started a caregiver support group. We met last night. There were are about 25 women there who have suffered through the trials of caregiving, and for some of them, for many years, without any help from anybody."

Representative Chang rose to yield his time, and the Chair "so ordered."

Representative Lee continued, stating:

"As you can imagine balancing caregiving duties with work responsibilities and family obligations is time consuming, exhausting and financially draining. Demographics only

further complicate the already overwhelming task of providing quality care to Hawaii residents. Hawaii is among the top three most rapidly aging states in the nation. We can be proud of our longevity. It does make a difference in how we plan for the future.

"For example we know that about 50% of all persons age 85 or older need help with activities of daily living. We also know that this population will increase by about 286% over the next eight years. Further we know that 15% of persons over the age of 60 were below the 125% of the poverty level for Hawaii in 1990. The 60 plus population will make up nearly a quarter of our State in less than twenty years. These are the people that will require the majority of long-term care. I will probably be one of them. At an estimated average cost of nearly \$200,000 per person per year for long-term care in 2020, the caregiving network faces a considerable dilemma and the potential for human suffering is staggering. That human suffering is the third consequence.

"There are very clear moral obligations here. The people who need long-term care are our grandparents, our parents, our brothers, our sisters, our sons and daughters. They're the people who contributed to making Hawaii the great place as it is today and now they need our help. As the leaders of our community, we have a moral obligation to make sure that care is available to the people who need it the most. The CarePlus program will help us meet that obligation. We can no longer afford to do nothing. CarePlus will help to assure a more secure future for Hawaii.

"Considerable research has gone into developing the CarePlus Program. The purpose is relatively simple, to enable easier access to long-term care for eligible adults. To summarize the program, all Hawaii residents age 25 and older would pay \$10 a month into a program managed by a qualified Board of Trustees to ensure the availability of long-term care when and if they need it.

"First, CarePlus addresses the economic difficulties in providing long-term care. CarePlus is a long-term care investment for the future. As a self-sufficient, self-perpetuating insurance program, it would generate benefits for Hawaii residents for years to come. It wouldn't be a government-run program and would not tap into our tightly controlled budget. It would help to ease the financial burden on the individual and family by providing eligible participants with at least 365 days of long-term care coverage with a daily benefit of \$70 dollars a day. When used in conjunction with careful private financial planning and existing federal programs, CarePlus would help individuals in the State manage the economic difficulties of providing long-term care.

"CarePlus would also help to alleviate the problems facing the way the caregiving network functions. CarePlus would assist the majority of Hawaii's adults because it does not target economically challenged populations. The program would help guarantee quality care for all people, thus bridging the gap between the very poor and those who are able to cover the cost of your own long-term care. While many insurance policies are limited to those over the age of 40, CarePlus would not discriminate based on age. All eligible adults, age 25 or older will be entitled to coverage. Further, because CarePlus allows for compensation to informal care givers, it would help families better manage the cost of long-term care. That is a very important part of this. The CarePlus program also satisfies the moral obligations that we have to our loved ones and community. It assures that no one would go without. It strictly enforces the philosophy that President Franklin D. Roosevelt so eloquently..."

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

Representative Lee continued, stating:

"It assures that no one would go without care and it strictly enforces the philosophy that President Franklin D. Roosevelt so eloquently proposed to the American public in 1933. To summarize, this program would be fair and efficient. It would benefit care recipients as much as care givers. It would satisfy the moral obligation that we have to our loved ones and our community. This legislation is the right thing, and now is the right time to do it.

"In closing I would like to say that changing times require new programs such as CarePlus. Although such programs are new and we are hesitant to support them openly, President Roosevelt would say, "Above all, try something," because up to now we haven't done much. "The millions who are in want will not stand by silently forever while the things that satisfied their needs are within easy reach."

"In addition I would like to insert into the record an editorial from the *Honolulu Advertiser* that talks about long-term care. The closing paragraph is a quote by Bob Ogawa, President of the Hawaii Long Term Care Association.

While it may be true that the devil is in the details, details can also sometimes bedevil us into inaction. This issue deserves commitment and creativity.

"Thank you."

Representative Lee also submitted the following editorial from the *Honolulu Advertiser*:

"Lack of creativity must not kill long-term care

A bill to tax Hawai'i residents a modest \$10 a month to create a state long-term-care insurance fund appears to be in jeopardy because people can't figure out how to collect the money from retirees and others who don't work.

Now, even in an election year, when lawmakers typically develop allergies to tax levies, there's got to be a way to solve this quandary. Many of us stand to benefit from such a fund, and even if we ourselves don't, our families and future generations will.

Under the CarePlus plan, any contributor can get up to a year of care at \$70 a day. Granted, that's not a whole lot, but it's better than nothing. Neither private insurance nor Medicaid goes far enough in providing for the high cost of nursing homes, assisted living and in-home care. We need a better safety net, particularly given Hawai'i's rapidly graying population. And that means paying today so that a decade from now, we'll have some money in the pot.

So how can the state cast as wide a net as possible get all residents from ages 25 to 98 to contribute? In the case of retirees or the jobless, the state could collect monthly, quarterly or annual payments via income tax returns or public assistance. Social Security is federal money, so it's unlikely the state could deduct a monthly \$10 from that fund.

Of course, we demand that any long-term-care fund be used for just that, and not to bail out the state during a budget crisis, as has been proposed for the Hurricane Relief Fund. The need for long-term-care insurance has been neglected for too long. Lawmakers should heed the warning of Bob Ogawa, president of the Hawai'i Long Term Care Association, who says: "While it may be true that the devil is in the details, details can also

sometimes bedevil us into inaction." This issue deserves commitment and creativity."

The Honolulu Advertiser
February 12, 2002

Representative Souki rose on a point of information, stating:

"Is this Second Reading or Third Reading?"

The Chair responded: "Your point is well taken."

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

"My conflict is that my mother is in her 97th year."

The Chair responded, "That is your mom's conflict."

Representative Moses continued in opposition, stating:

"It is my conflict because I would stand to benefit from this. I rise in opposition Madame Speaker. I pledged to all of my constituents that I would not vote for any tax increase, no matter how worthy a cause.

"This appears on its face to be a worthy cause, but I believe a better way to do this would be to allow people to buy long-term care insurance and give them a tax break for that. It is \$120 dollars a year that we are going to take from the taxpayer. They are already taxed on food, they are taxed when they are born, they are taxed when they die. Let's give them a break and let them buy what they want. They should buy long-term insurance, but we cannot mandate it. We should not mandate it. Thank you."

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

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

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

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

"Madame Speaker, I just want to stand in strong support, and I make a brief comment about Japan and how important this issue is to them. They made it a national issue, where \$10 is taken from everybody's paycheck, whoever has a job in Japan. Whether you are a citizen or a non-citizen, and it is working fine, and I think that one day I hope all 50 states would send resolutions to Congress to mandate a program such as this, where we could be the model."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2638, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII LONG-TERM CARE FINANCING ACT," passed Second Reading and was referred to the Committee on Finance with Representatives Case, Djou, Gomes, McDermott, Meyer, Moses and Whalen voting no and with Representatives Pendleton, Rath and Thielen being excused.

Representative Abinsay, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 323-02) recommending that H.B. No. 2271, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2271, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO ABATE AGRICULTURAL THEFT," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Abinsay, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 324-02) recommending that H.B. No. 1976, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1976, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST INDUSTRIAL ENTERPRISES," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Abinsay, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 325-02) recommending that H.B. No. 2725, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2725, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

Representative Abinsay's written remarks are as follows:

"Mr. Speaker, I rise in support of H.B. No. 2725 – Relating to Special Purpose Revenue Bonds for Hawaii Macadamia Tree, Inc.

"Mr. Speaker, and members, this bill in a true sense is an economic development initiative that has the potential of not only producing better tasting and high quality macadamia nuts, but it also has the promise of promoting and expanding the macadamia nut industry in Hawaii. The macadamia nut industry is the third-largest agricultural industry in Hawaii and it plays a large part in our agricultural exports.

"As policymakers, we should not turn our back from new and innovative ways to improve and expand diversified agriculture. Here, we are presented with a new and revolutionary technique to process macadamia nuts, which produces larger quantities and fresh-tasting products.

"This new technology can help Hawaii macadamia nut compete in the world market, and in the long run can help Hawaii's economy by providing jobs.

"I urge your support to pass HB 2725 on Second Reading."

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

"Thank you Madame Speaker. In deference to the Chair of Agriculture, I do have some serious concerns, and we'll see how that is address in the next committee."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2725, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL

PURPOSE REVENUE BONDS FOR HAWAII MACADAMIA TREE, INCORPORATED," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representatives Abinsay and Takumi, for the Committee on Agriculture and the Committee on Higher Education presented a report (Stand. Com. Rep. No. 326-02) recommending that H.B. No. 2172, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2172, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Ahu Isa, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 327-02) recommending that H.B. No. 2385, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2385, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST WINES OF KAUAI, LLC," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Ahu Isa, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 328-02) recommending that H.B. No. 2570, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2570, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CAPITAL GOODS EXCISE TAX CREDIT," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Ahu Isa, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 329-02) recommending that H.B. No. 2803, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2803, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTION PICTURE AND FILM PRODUCTION," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Garcia, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 330-02) recommending that H.B. No. 2131, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2131, entitled: "A BILL FOR AN ACT RELATING TO THE JUNIOR RESERVE OFFICERS' TRAINING CORPS," passed Second Reading and was referred

to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Garcia, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 331-02) recommending that H.B. No. 2234, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2234, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"Thank you Madame Speaker, I'll be very brief and will reserve my other comments for the Finance Committee. I believe that we stand to benefit in this State, by not only supporting these veterans in this fiftieth commemoration, but also we stand to gain by tourist coming here from both Korea and the mainland. I understand the President of the United States is scheduled to come here for this event. So we would stand to benefit and it is a very little bit of money that they need to make this commemoration for those forgotten heroes of the Korean conflict. 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. 2234, entitled: "A BILL FOR AN ACT RELATING TO THE FIFTIETH ANNIVERSARY COMMEMORATION OF THE KOREAN WAR COMMISSION," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Garcia, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 332-02) recommending that H.B. No. 2132, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2132, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONS," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representatives Garcia and Saiki, for the Committee on Public Safety and Military Affairs and the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 333-02) recommending that H.B. No. 2478, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2478, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT STATUS OF PERSONNEL OF THE HAWAII NATIONAL GUARD YOUTH CHALLENGE ACADEMY," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representatives Garcia and Saiki, for the Committee on Public Safety and Military Affairs and the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 334-02) recommending that H.B. No. 2561, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee

was adopted and H.B. No. 2561, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII PAROLING AUTHORITY," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 335-02) recommending that H.B. No. 1842, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1842, HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce, seconded by Representative Lee.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1842, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PRACTICE OF PHARMACY," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce with Representatives Pendleton, Rath and Thielen being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 336-02) recommending that H.B. No. 2806, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2806, HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce, seconded by Representative Lee.

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

Representative McDermott continued, stating:

"Emergency contraception is already available. You just have to see a doctor, go to Planned Parenthood, a sex abuse clinic, or a neighborhood clinic. This is not really for emergencies. This is to make it available all the time via a pharmacist, not a doctor. It is available if you see a doctor, so the issue is not availability. The issue is whether a pharmacist can give it to you.

"I been here for 6 years, and I went to a hearing on a medical issue and I heard no testimony in support from Kaiser, HMSA, the Hawaii Medical Association, the Federation of Physicians and Dentists, and the Hawaii Association of OB-GYN on a issue of this magnitude. They were silent, there was no testimony in support of it and then the pharmacists who are supposed to dispense this said that the Board is unable to make a determination, on whether they even want this. So I think that we need to put the brakes on and consult with all these individuals.

"Additionally, only two people voted for it coming out of Committee. So there should be a lot of red flags on this one. Again I will submit the rest of my comments to the journal."

Representative McDermott's written remarks are as follows:

"Mr. Speaker and Members of the House, I am opposed to House Bill 2806. We have received no testimony in support from Kaiser, HMSA, HMA Federation of Psychiatrists, or Hawaii Association of Obstetricians and Gynecologists. Even the Board of Pharmacy is unable to make a determination on this bill at this time.

"Quite simply this bill does not have the support of the medical community. Additionally, to say that this method of contraception is flawed. It is indeed an abortifacient."

Representative McDermott also submitted the following two articles:

**"PONTIFICAL ACADEMY FOR LIFE
STATEMENT ON THE SO-CALLED
"MORNING-AFTER PILL"**

... It is a well-known chemical product (of the hormonal type) which has frequently ... been presented by many in the field and by the mass media as a mere contraceptive or, more precisely, as an "emergency contraceptive", which can be used within a short time after a presumably fertile act of sexual intercourse, should one wish to prevent the continuation of an unwanted pregnancy. The inevitable critical reactions of those who have raised serious doubts about how this product works, namely, that its action is not merely "contraceptive" but "abortifacient", have received the very hasty reply that such concerns appear unfounded, since the morning-after pill has an "anti-implantation" effect, thus implicitly suggesting a clear distinction between abortion and *interception* (preventing the implantation of the fertilized ovum, i.e., the embryo, in the uterine wall).

Considering that the use of this product concerns fundamental human goods and values, to the point of involving the origins of human life itself, the Pontifical Academy for Life feels the pressing duty and definite need to offer some clarifications and considerations on the subject, reaffirming moreover already well-known ethical positions supported by precise scientific data and reinforced by Catholic doctrine.

1. The *morning-after pill* is a hormone-based preparation (it can contain oestrogens, oestrogen/progestogens or only progestogens) which, within and no later than 72 hours after a presumably fertile act of sexual intercourse, has a predominantly "anti-implantation" function, i.e., it prevents a possible fertilized ovum (which is a human embryo), by now in the *blastocyst* stage of its development (fifth to sixth day after fertilization), from being implanted in the uterine wall by a process of altering the wall itself.

The final result will thus be the expulsion and loss of this embryo.

Only if this pill were to be taken several days before the moment of ovulation could it sometimes act to prevent the latter (in this case it would function as a typical "contraceptive").

However, the woman who uses this kind of pill does so in the fear that she may be in her fertile period and therefore intends to cause the expulsion of a possible new conceptus; above all, it would be unrealistic to think that a woman, finding herself in the situation of wanting to use an emergency contraceptive, would be able to know exactly and opportunely her current state of fertility.

2. The decision to use the term "fertilized ovum" to indicate the earliest phases of embryonic development can in no way lead to an artificial value distinction between different moments in the development of the same human individual. In other

words, if it can be useful, for reasons of scientific description, to distinguish with conventional terms (fertilized ovum, embryo, fetus, etc.) different moments in a single growth process, it can never be legitimate to decide arbitrarily that the human individual has greater or lesser value (with the resulting variation in the duty to protect it) according to its stage of development.

3. It is clear, therefore, that the proven "anti-implantation" action of the *morning-after pill* is really nothing other than a chemically induced abortion. It is neither intellectually consistent nor scientifically justifiable to say that we are not dealing with the same thing.

Moreover, it seems sufficiently clear that those who ask for or offer this pill are seeking the direct termination of a possible pregnancy already in progress, just as in the case of abortion. Pregnancy, in fact, begins with fertilization and not with the implantation of the blastocyst in the uterine wall, which is what is being implicitly suggested.

4. Consequently, from the ethical standpoint the same absolute unlawfulness of abortifacient procedures also applies to distributing, prescribing and taking the *morning-after pill*. All who, whether sharing the intention or not, directly cooperate with this procedure are also morally responsible for it.

5. A further consideration should be made regarding the use of the *morning-after pill* in relation to the application of Law 194/78, which in Italy regulates the conditions and procedures for the voluntary termination of pregnancy.

Saying that the pill is an "anti-implantation" product, instead of using the more transparent term "abortifacient", makes it possible to *avoid* all the obligatory procedures required by Law 194 in order to terminate a pregnancy (prior interview, verification of pregnancy, determination of growth stage, time for reflection, etc.), by practising a form of abortion that is completely hidden and cannot be recorded by any institution. All this seems, then, to be in direct contradiction to the correct application of Law 194, itself debatable.

6. In the end, since these procedures are becoming more widespread, we strongly urge everyone who works in this sector to make a firm objection of *moral* conscience, which will bear courageous and practical witness to the inalienable value of human life, especially in view of the new *hidden* forms of aggression against the weakest and most defenceless individuals, as is the case with a human embryo."
Vatican City, 31 October 2000.

**"HUMANAE VITAE
ENCYCLICAL OF POPE PAUL VI ON THE
REGULATION OF BIRTH
JULY 25, 1968**

To His Venerable Brothers the Patriarchs, Archbishops, Bishops and other Local Ordinaries in Peace and Communion with the Apostolic See, to the Clergy and Faithful of the Whole Catholic World, and to All Men of Good Will.

Honored Brothers and Dear Sons, Health and Apostolic Benediction.

The transmission of human life is a most serious role in which married people collaborate freely and responsibly with God the Creator. It has always been a source of great joy to them, even though it sometimes entails many difficulties and hardships.

The fulfillment of this duty has always posed problems to the conscience of married people, but the recent course of human society and the concomitant changes have provoked new

questions. The Church cannot ignore these questions, for they concern matters intimately connected with the life and happiness of human beings.

1. PROBLEM AND COMPETENCY OF THE MAGISTERIUM

2. The changes that have taken place are of considerable importance and varied in nature. In the first place there is the rapid increase in population which has made many fear that world population is going to grow faster than available resources, with the consequence that many families and developing countries would be faced with greater hardships. This can easily induce public authorities to be tempted to take even harsher measures to avert this danger. There is also the fact that not only working and housing conditions but the greater demands made both in the economic and educational field pose a living situation in which it is frequently difficult these days to provide properly for a large family.

Also noteworthy is a new understanding of the dignity of woman and her place in society, of the value of conjugal love in marriage and the relationship of conjugal acts to this love.

But the most remarkable development of all is to be seen in man's stupendous progress in the domination and rational organization of the forces of nature to the point that he is endeavoring to extend this control over every aspect of his own life—over his body, over his mind and emotions, over his social life, and even over the laws that regulate the transmission of life.

New Questions

3. This new state of things gives rise to new questions. Granted the conditions of life today and taking into account the relevance of married love to the harmony and mutual fidelity of husband and wife, would it not be right to review the moral norms in force till now, especially when it is felt that these can be observed only with the gravest difficulty, sometimes only by heroic effort?

Moreover, if one were to apply here the so-called principle of totality, could it not be accepted that the intention to have a less prolific but more rationally planned family might transform an action which renders natural processes infertile into a licit and provident control of birth? Could it not be admitted, in other words, that procreative finality applies to the totality of married life rather than to each single act? A further question is whether, because people are more conscious today of their responsibilities, the time has not come when the transmission of life should be regulated by their intelligence and will rather than through the specific rhythms of their own bodies.

Interpreting the Moral Law

4. This kind of question requires from the teaching authority of the Church a new and deeper reflection on the principles of the moral teaching on marriage—a teaching which is based on the natural law as illuminated and enriched by divine Revelation.

No member of the faithful could possibly deny that the Church is competent in her magisterium to interpret the natural moral law. It is in fact indisputable, as Our predecessors have many times declared, (1) that Jesus Christ, when He communicated His divine power to Peter and the other Apostles and sent them to teach all nations His commandments, (2) constituted them as the authentic guardians and interpreters of the whole moral law, not only, that is, of the law of the Gospel but also of the natural law. For the natural law, too, declares the will of God, and its faithful observance is necessary for men's eternal salvation. (3)

In carrying out this mandate, the Church has always issued appropriate documents on the nature of marriage, the correct use of conjugal rights, and the duties of spouses. These documents have been more copious in recent times. (4)

Special Studies

5. The consciousness of the same responsibility induced Us to confirm and expand the commission set up by Our predecessor Pope John XXIII, of happy memory, in March, 1963. This commission included married couples as well as many experts in the various fields pertinent to these questions. Its task was to examine views and opinions concerning married life, and especially on the correct regulation of births; and it was also to provide the teaching authority of the Church with such evidence as would enable it to give an apt reply in this matter, which not only the faithful but also the rest of the world were waiting for. (5)

When the evidence of the experts had been received, as well as the opinions and advice of a considerable number of Our brethren in the episcopate—some of whom sent their views spontaneously, while others were requested by Us to do so—We were in a position to weigh with more precision all the aspects of this complex subject. Hence We are deeply grateful to all those concerned.

The Magisterium's Reply

6. However, the conclusions arrived at by the commission could not be considered by Us as definitive and absolutely certain, dispensing Us from the duty of examining personally this serious question. This was all the more necessary because, within the commission itself, there was not complete agreement concerning the moral norms to be proposed, and especially because certain approaches and criteria for a solution to this question had emerged which were at variance with the moral doctrine on marriage constantly taught by the magisterium of the Church.

Consequently, now that We have sifted carefully the evidence sent to Us and intently studied the whole matter, as well as prayed constantly to God, We, by virtue of the mandate entrusted to Us by Christ, intend to give Our reply to this series of grave questions.

II. DOCTRINAL PRINCIPLES

7. The question of human procreation, like every other question which touches human life, involves more than the limited aspects specific to such disciplines as biology, psychology, demography or sociology. It is the whole man and the whole mission to which he is called that must be considered: both its natural, earthly aspects and its supernatural, eternal aspects. And since in the attempt to justify artificial methods of birth control many appeal to the demands of married love or of responsible parenthood, these two important realities of married life must be accurately defined and analyzed. This is what We mean to do, with special reference to what the Second Vatican Council taught with the highest authority in its Pastoral Constitution on the Church in the World of Today.

God's Loving Design

8. Married love particularly reveals its true nature and nobility when we realize that it takes its origin from God, who "is love," (6) the Father "from whom every family in heaven and on earth is named." (7)

Marriage, then, is far from being the effect of chance or the result of the blind evolution of natural forces. It is in reality the wise and provident institution of God the Creator, whose purpose was to effect in man His loving design. As a consequence, husband and wife, through that mutual gift of

themselves, which is specific and exclusive to them alone, develop that union of two persons in which they perfect one another, cooperating with God in the generation and rearing of new lives.

The marriage of those who have been baptized is, in addition, invested with the dignity of a sacramental sign of grace, for it represents the union of Christ and His Church.

Married Love

9. In the light of these facts the characteristic features and exigencies of married love are clearly indicated, and it is of the highest importance to evaluate them exactly.

This love is above all fully human, a compound of sense and spirit. It is not, then, merely a question of natural instinct or emotional drive. It is also, and above all, an act of the free will, whose trust is such that it is meant not only to survive the joys and sorrows of daily life, but also to grow, so that husband and wife become in a way one heart and one soul, and together attain their human fulfillment.

It is a love which is total—that very special form of personal friendship in which husband and wife generously share everything, allowing no unreasonable exceptions and not thinking solely of their own convenience. Whoever really loves his partner loves not only for what he receives, but loves that partner for the partner's own sake, content to be able to enrich the other with the gift of himself.

Married love is also faithful and exclusive of all other, and this until death. This is how husband and wife understood it on the day on which, fully aware of what they were doing, they freely vowed themselves to one another in marriage. Though this fidelity of husband and wife sometimes presents difficulties, no one has the right to assert that it is impossible; it is, on the contrary, always honorable and meritorious. The example of countless married couples proves not only that fidelity is in accord with the nature of marriage, but also that it is the source of profound and enduring happiness.

Finally, this love is fecund. It is not confined wholly to the loving interchange of husband and wife; it also contrives to go beyond this to bring new life into being. "Marriage and conjugal love are by their nature ordained toward the procreation and education of children. Children are really the supreme gift of marriage and contribute in the highest degree to their parents' welfare." (8)

Responsible Parenthood

10. Married love, therefore, requires of husband and wife the full awareness of their obligations in the matter of responsible parenthood, which today, rightly enough, is much insisted upon, but which at the same time should be rightly understood. Thus, we do well to consider responsible parenthood in the light of its varied legitimate and interrelated aspects.

With regard to the biological processes, responsible parenthood means an awareness of, and respect for, their proper functions. In the procreative faculty the human mind discerns biological laws that apply to the human person. (9)

With regard to man's innate drives and emotions, responsible parenthood means that man's reason and will must exert control over them.

With regard to physical, economic, psychological and social conditions, responsible parenthood is exercised by those who prudently and generously decide to have more children, and by those who, for serious reasons and with due respect to moral precepts, decide not to have additional children for either a certain or an indefinite period of time.

Responsible parenthood, as we use the term here, has one further essential aspect of paramount importance. It concerns the objective moral order which was established by God, and of which a right conscience is the true interpreter. In a word, the exercise of responsible parenthood requires that husband and wife, keeping a right order of priorities, recognize their own duties toward God, themselves, their families and human society.

From this it follows that they are not free to act as they choose in the service of transmitting life, as if it were wholly up to them to decide what is the right course to follow. On the contrary, they are bound to ensure that what they do corresponds to the will of God the Creator. The very nature of marriage and its use makes His will clear, while the constant teaching of the Church spells it out. (10)

Observing the Natural Law

11. The sexual activity, in which husband and wife are intimately and chastely united with one another, through which human life is transmitted, is, as the recent Council recalled, "noble and worthy." (11) It does not, moreover, cease to be legitimate even when, for reasons independent of their will, it is foreseen to be infertile. For its natural adaptation to the expression and strengthening of the union of husband and wife is not thereby suppressed. The fact is, as experience shows, that new life is not the result of each and every act of sexual intercourse. God has wisely ordered laws of nature and the incidence of fertility in such a way that successive births are already naturally spaced through the inherent operation of these laws. The Church, nevertheless, in urging men to the observance of the precepts of the natural law, which it interprets by its constant doctrine, teaches that each and every marital act must of necessity retain its intrinsic relationship to the procreation of human life. (12)

Union and Procreation

12. This particular doctrine, often expounded by the magisterium of the Church, is based on the inseparable connection, established by God, which man on his own initiative may not break, between the unitive significance and the procreative significance which are both inherent to the marriage act.

The reason is that the fundamental nature of the marriage act, while uniting husband and wife in the closest intimacy, also renders them capable of generating new life—and this as a result of laws written into the actual nature of man and of woman. And if each of these essential qualities, the unitive and the procreative, is preserved, the use of marriage fully retains its sense of true mutual love and its ordination to the supreme responsibility of parenthood to which man is called. We believe that our contemporaries are particularly capable of seeing that this teaching is in harmony with human reason.

Faithfulness to God's Design

13. Men rightly observe that a conjugal act imposed on one's partner without regard to his or her condition or personal and reasonable wishes in the matter, is no true act of love, and therefore offends the moral order in its particular application to the intimate relationship of husband and wife. If they further reflect, they must also recognize that an act of mutual love which impairs the capacity to transmit life which God the Creator, through specific laws, has built into it, frustrates His design which constitutes the norm of marriage, and contradicts the will of the Author of life. Hence to use this divine gift while depriving it, even if only partially, of its meaning and purpose, is equally repugnant to the nature of man and of woman, and is consequently in opposition to the plan of God and His holy will. But to experience the gift of married love while respecting the laws of conception is to acknowledge that one is not the

master of the sources of life but rather the minister of the design established by the Creator. Just as man does not have unlimited dominion over his body in general, so also, and with more particular reason, he has no such dominion over his specifically sexual faculties, for these are concerned by their very nature with the generation of life, of which God is the source. "Human life is sacred—all men must recognize that fact," Our predecessor Pope John XXIII recalled. "From its very inception it reveals the creating hand of God." (13)

Unlawful Birth Control Methods

14. Therefore We base Our words on the first principles of a human and Christian doctrine of marriage when We are obliged once more to declare that the direct interruption of the generative process already begun and, above all, all direct abortion, even for therapeutic reasons, are to be absolutely excluded as lawful means of regulating the number of children. (14) Equally to be condemned, as the magisterium of the Church has affirmed on many occasions, is direct sterilization, whether of the man or of the woman, whether permanent or temporary. (15)

Similarly excluded is any action which either before, at the moment of, or after sexual intercourse, is specifically intended to prevent procreation—whether as an end or as a means. (16)

Neither is it valid to argue, as a justification for sexual intercourse which is deliberately contraceptive, that a lesser evil is to be preferred to a greater one, or that such intercourse would merge with procreative acts of past and future to form a single entity, and so be qualified by exactly the same moral goodness as these. Though it is true that sometimes it is lawful to tolerate a lesser moral evil in order to avoid a greater evil or in order to promote a greater good," it is never lawful, even for the gravest reasons, to do evil that good may come of it (18)—in other words, to intend directly something which of its very nature contradicts the moral order, and which must therefore be judged unworthy of man, even though the intention is to protect or promote the welfare of an individual, of a family or of society in general. Consequently, it is a serious error to think that a whole married life of otherwise normal relations can justify sexual intercourse which is deliberately contraceptive and so intrinsically wrong.

Lawful Therapeutic Means

15. On the other hand, the Church does not consider at all illicit the use of those therapeutic means necessary to cure bodily diseases, even if a foreseeable impediment to procreation should result therefrom—provided such impediment is not directly intended for any motive whatsoever. (19)

Recourse to Infertile Periods

16. Now as We noted earlier (no. 3), some people today raise the objection against this particular doctrine of the Church concerning the moral laws governing marriage, that human intelligence has both the right and responsibility to control those forces of irrational nature which come within its ambit and to direct them toward ends beneficial to man. Others ask on the same point whether it is not reasonable in so many cases to use artificial birth control if by so doing the harmony and peace of a family are better served and more suitable conditions are provided for the education of children already born. To this question We must give a clear reply. The Church is the first to praise and commend the application of human intelligence to an activity in which a rational creature such as man is so closely associated with his Creator. But she affirms that this must be done within the limits of the order of reality established by God.

If therefore there are well-grounded reasons for spacing births, arising from the physical or psychological condition of

husband or wife, or from external circumstances, the Church teaches that married people may then take advantage of the natural cycles immanent in the reproductive system and engage in marital intercourse only during those times that are infertile, thus controlling birth in a way which does not in the least offend the moral principles which We have just explained. (20)

Neither the Church nor her doctrine is inconsistent when she considers it lawful for married people to take advantage of the infertile period but condemns as always unlawful the use of means which directly prevent conception, even when the reasons given for the later practice may appear to be upright and serious. In reality, these two cases are completely different. In the former the married couple rightly use a faculty provided them by nature. In the latter they obstruct the natural development of the generative process. It cannot be denied that in each case the married couple, for acceptable reasons, are both perfectly clear in their intention to avoid children and wish to make sure that none will result. But it is equally true that it is exclusively in the former case that husband and wife are ready to abstain from intercourse during the fertile period as often as for reasonable motives the birth of another child is not desirable. And when the infertile period recurs, they use their married intimacy to express their mutual love and safeguard their fidelity toward one another. In doing this they certainly give proof of a true and authentic love.

Consequences of Artificial Methods

17. Responsible men can become more deeply convinced of the truth of the doctrine laid down by the Church on this issue if they reflect on the consequences of methods and plans for artificial birth control. Let them first consider how easily this course of action could open wide the way for marital infidelity and a general lowering of moral standards. Not much experience is needed to be fully aware of human weakness and to understand that human beings—and especially the young, who are so exposed to temptation—need incentives to keep the moral law, and it is an evil thing to make it easy for them to break that law. Another effect that gives cause for alarm is that a man who grows accustomed to the use of contraceptive methods may forget the reverence due to a woman, and, disregarding her physical and emotional equilibrium, reduce her to being a mere instrument for the satisfaction of his own desires, no longer considering her as his partner whom he should surround with care and affection.

Finally, careful consideration should be given to the danger of this power passing into the hands of those public authorities who care little for the precepts of the moral law. Who will blame a government which in its attempt to resolve the problems affecting an entire country resorts to the same measures as are regarded as lawful by married people in the solution of a particular family difficulty? Who will prevent public authorities from favoring those contraceptive methods which they consider more effective? Should they regard this as necessary, they may even impose their use on everyone. It could well happen, therefore, that when people, either individually or in family or social life, experience the inherent difficulties of the divine law and are determined to avoid them, they may give into the hands of public authorities the power to intervene in the most personal and intimate responsibility of husband and wife.

Limits to Man's Power

Consequently, unless we are willing that the responsibility of procreating life should be left to the arbitrary decision of men, we must accept that there are certain limits, beyond which it is wrong to go, to the power of man over his own body and its natural functions—limits, let it be said, which no one, whether as a private individual or as a public authority, can lawfully exceed. These limits are expressly imposed because of the reverence due to the whole human organism and its natural

functions, in the light of the principles We stated earlier, and in accordance with a correct understanding of the "principle of totality" enunciated by Our predecessor Pope Pius XII. (21)

Concern of the Church

18. It is to be anticipated that perhaps not everyone will easily accept this particular teaching. There is too much clamorous outcry against the voice of the Church, and this is intensified by modern means of communication. But it comes as no surprise to the Church that she, no less than her divine Founder, is destined to be a "sign of contradiction." (22) She does not, because of this, evade the duty imposed on her of proclaiming humbly but firmly the entire moral law, both natural and evangelical.

Since the Church did not make either of these laws, she cannot be their arbiter—only their guardian and interpreter. It could never be right for her to declare lawful what is in fact unlawful, since that, by its very nature, is always opposed to the true good of man.

In preserving intact the whole moral law of marriage, the Church is convinced that she is contributing to the creation of a truly human civilization. She urges man not to betray his personal responsibilities by putting all his faith in technical expedients. In this way she defends the dignity of husband and wife. This course of action shows that the Church, loyal to the example and teaching of the divine Savior, is sincere and unselfish in her regard for men whom she strives to help even now during this earthly pilgrimage "to share God's life as sons of the living God, the Father of all men." (23)

III. PASTORAL DIRECTIVES

19. Our words would not be an adequate expression of the thought and solicitude of the Church, Mother and Teacher of all peoples, if, after having recalled men to the observance and respect of the divine law regarding matrimony, they did not also support mankind in the honest regulation of birth amid the difficult conditions which today afflict families and peoples. The Church, in fact, cannot act differently toward men than did the Redeemer. She knows their weaknesses, she has compassion on the multitude, she welcomes sinners. But at the same time she cannot do otherwise than teach the law. For it is in fact the law of human life restored to its native truth and guided by the Spirit of God. (24) Observing the Divine Law.

20. The teaching of the Church regarding the proper regulation of birth is a promulgation of the law of God Himself. And yet there is no doubt that to many it will appear not merely difficult but even impossible to observe. Now it is true that like all good things which are outstanding for their nobility and for the benefits which they confer on men, so this law demands from individual men and women, from families and from human society, a resolute purpose and great endurance. Indeed it cannot be observed unless God comes to their help with the grace by which the goodwill of men is sustained and strengthened. But to those who consider this matter diligently it will indeed be evident that this endurance enhances man's dignity and confers benefits on human society.

Value of Self-Discipline

21. The right and lawful ordering of birth demands, first of all, that spouses fully recognize and value the true blessings of family life and that they acquire complete mastery over themselves and their emotions. For if with the aid of reason and of free will they are to control their natural drives, there can be no doubt at all of the need for self-denial. Only then will the expression of love, essential to married life, conform to right order. This is especially clear in the practice of periodic continence. Self-discipline of this kind is a shining witness to the chastity of husband and wife and, far from being a

hindrance to their love of one another, transforms it by giving it a more truly human character. And if this self-discipline does demand that they persevere in their purpose and efforts, it has at the same time the salutary effect of enabling husband and wife to develop to their personalities and to be enriched with spiritual blessings. For it brings to family life abundant fruits of tranquility and peace. It helps in solving difficulties of other kinds. It fosters in husband and wife thoughtfulness and loving consideration for one another. It helps them to repel inordinate self-love, which is the opposite of charity. It arouses in them a consciousness of their responsibilities. And finally, it confers upon parents a deeper and more effective influence in the education of their children. As their children grow up, they develop a right sense of values and achieve a serene and harmonious use of their mental and physical powers.

Promotion of Chastity

22. We take this opportunity to address those who are engaged in education and all those whose right and duty it is to provide for the common good of human society. We would call their attention to the need to create an atmosphere favorable to the growth of chastity so that true liberty may prevail over license and the norms of the moral law may be fully safeguarded.

Everything therefore in the modern means of social communication which arouses men's baser passions and encourages low moral standards, as well as every obscenity in the written word and every form of indecency on the stage and screen, should be condemned publicly and unanimously by all those who have at heart the advance of civilization and the safeguarding of the outstanding values of the human spirit. It is quite absurd to defend this kind of depravity in the name of art or culture (25) or by pleading the liberty which may be allowed in this field by the public authorities.

Appeal to Public Authorities

23. And now We wish to speak to rulers of nations. To you most of all is committed the responsibility of safeguarding the common good. You can contribute so much to the preservation of morals. We beg of you, never allow the morals of your peoples to be undermined. The family is the primary unit in the state; do not tolerate any legislation which would introduce into the family those practices which are opposed to the natural law of God. For there are other ways by which a government can and should solve the population problem—that is to say by enacting laws which will assist families and by educating the people wisely so that the moral law and the freedom of the citizens are both safeguarded.

Seeking True Solutions

We are fully aware of the difficulties confronting the public authorities in this matter, especially in the developing countries. In fact, We had in mind the justifiable anxieties which weigh upon them when We published Our encyclical letter *Populorum Progressio*. But now We join Our voice to that of Our predecessor John XXIII of venerable memory, and We make Our own his words: "No statement of the problem and no solution to it is acceptable which does violence to man's essential dignity; those who propose such solutions base them on an utterly materialistic conception of man himself and his life. The only possible solution to this question is one which envisages the social and economic progress both of individuals and of the whole of human society, and which respects and promotes true human values." (26) No one can, without being grossly unfair, make divine Providence responsible for what clearly seems to be the result of misguided governmental policies, of an insufficient sense of social justice, of a selfish accumulation of material goods, and finally of a culpable failure to undertake those initiatives and responsibilities which would raise the standard of living of peoples and their children. (27) If only all governments which were able would do what

some are already doing so nobly, and bestir themselves to renew their efforts and their undertakings! There must be no relaxation in the programs of mutual aid between all the branches of the great human family. Here We believe an almost limitless field lies open for the activities of the great international institutions.

To Scientists

24. Our next appeal is to men of science. These can "considerably advance the welfare of marriage and the family and also peace of conscience, if by pooling their efforts they strive to elucidate more thoroughly the conditions favorable to a proper regulation of births." (28) It is supremely desirable, and this was also the mind of Pius XII, that medical science should be the study of natural rhythms succeed in determining a sufficiently secure basis for the chaste limitation of offspring. (29) In this way scientists, especially those who are Catholics, will by their research establish the truth of the Church's claim that "there can be no contradiction between two divine laws—that which governs the transmitting of life and that which governs the fostering of married love." (30)

To Christian Couples

25. And now We turn in a special way to Our own sons and daughters, to those most of all whom God calls to serve Him in the state of marriage. While the Church does indeed hand on to her children the inviolable conditions laid down by God's law, she is also the herald of salvation and through the sacraments she flings wide open the channels of grace through which man is made a new creature responding in charity and true freedom to the design of his Creator and Savior, experiencing too the sweetness of the yoke of Christ. (31)

In humble obedience then to her voice, let Christian husbands and wives be mindful of their vocation to the Christian life, a vocation which, deriving from their Baptism, has been confirmed anew and made more explicit by the Sacrament of Matrimony. For by this sacrament they are strengthened and, one might almost say, consecrated to the faithful fulfillment of their duties. Thus will they realize to the full their calling and bear witness as becomes them, to Christ before the world. (32) For the Lord has entrusted to them the task of making visible to men and women the holiness and joy of the law which united inseparably their love for one another and the cooperation they give to God's love, God who is the Author of human life.

We have no wish at all to pass over in silence the difficulties, at times very great, which beset the lives of Christian married couples. For them, as indeed for every one of us, "the gate is narrow and the way is hard, that leads to life." (33) Nevertheless it is precisely the hope of that life which, like a brightly burning torch, lights up their journey, as, strong in spirit, they strive to live "sober, upright and godly lives in this world," (34) knowing for sure that "the form of this world is passing away." (35)

Recourse to God

For this reason husbands and wives should take up the burden appointed to them, willingly, in the strength of faith and of that hope which "does not disappoint us, because God's love has been poured into our hearts through the Holy Spirit who has been given to us ~}36 Then let them implore the help of God with unremitting prayer and, most of all, let them draw grace and charity from that unfailing fount which is the Eucharist. If, however, sin still exercises its hold over them, they are not to lose heart. Rather must they, humble and persevering, have recourse to the mercy of God, abundantly bestowed in the Sacrament of Penance. In this way, for sure, they will be able to reach that perfection of married life which the Apostle sets out in these words: "Husbands, love your wives, as Christ loved the Church. . . Even so husbands should

love their wives as their own bodies. He who loves his wife loves himself. For no man ever hates his own flesh, but nourishes and cherishes it, as Christ does the Church. . . This is a great mystery, and I mean in reference to Christ and the Church; however, let each one of you love his wife as himself, and let the wife see that she respects her husband." (37)

Family Apostolate

26. Among the fruits that ripen if the law of God be resolutely obeyed, the most precious is certainly this, that married couples themselves will often desire to communicate their own experience to others. Thus it comes about that in the fullness of the lay vocation will be included a novel and outstanding form of the apostolate by which, like ministering to like, married couples themselves by the leadership they offer will become apostles to other married couples. And surely among all the forms of the Christian apostolate it is hard to think of one more opportune for the present time. (38)

To Doctors and Nurses

27. Likewise we hold in the highest esteem those doctors and members of the nursing profession who, in the exercise of their calling, endeavor to fulfill the demands of their Christian vocation before any merely human interest. Let them therefore continue constant in their resolution always to support those lines of action which accord with faith and with right reason. And let them strive to win agreement and support for these policies among their professional colleagues. Moreover, they should regard it as an essential part of their skill to make themselves fully proficient in this difficult field of medical knowledge. For then, when married couples ask for their advice, they may be in a position to give them right counsel and to point them in the proper direction. Married couples have a right to expect this much from them.

To Priests

28. And now, beloved sons, you who are priests, you who in virtue of your sacred office act as counselors and spiritual leaders both of individual men and women and of families— We turn to you filled with great confidence. For it is your principal duty—We are speaking especially to you who teach moral theology—to spell out clearly and completely the Church's teaching on marriage. In the performance of your ministry you must be the first to give an example of that sincere obedience, inward as well as outward, which is due to the magisterium of the Church. For, as you know, the pastors of the Church enjoy a special light of the Holy Spirit in teaching the truth. (39) And this, rather than the arguments they put forward, is why you are bound to such obedience. Nor will it escape you that if men's peace of soul and the unity of the Christian people are to be preserved, then it is of the utmost importance that in moral as well as in dogmatic theology all should obey the magisterium of the Church and should speak as with one voice. Therefore We make Our own the anxious words of the great Apostle Paul and with all Our heart We renew Our appeal to you: "I appeal to you, brethren, by the name of our Lord Jesus Christ, that all of you agree and that there be no dissensions among you, but that you be united in the same mind and the same judgment." (40)

Christian Compassion

29. Now it is an outstanding manifestation of charity toward souls to omit nothing from the saving doctrine of Christ; but this must always be joined with tolerance and charity, as Christ Himself showed in His conversations and dealings with men. For when He came, not to judge, but to save the world, (41) was He not bitterly severe toward sin, but patient and abounding in mercy toward sinners?

Husbands and wives, therefore, when deeply distressed by reason of the difficulties of their life, must find stamped in the

heart and voice of their priest the likeness of the voice and the love of our Redeemer.

So speak with full confidence, beloved sons, convinced that while the Holy Spirit of God is present to the magisterium proclaiming sound doctrine, He also illumines from within the hearts of the faithful and invites their assent. Teach married couples the necessary way of prayer and prepare them to approach more often with great faith the Sacraments of the Eucharist and of Penance. Let them never lose heart because of their weakness.

To Bishops

30. And now as We come to the end of this encyclical letter, We turn Our mind to you, reverently and lovingly, beloved and venerable brothers in the episcopate, with whom We share more closely the care of the spiritual good of the People of God. For We invite all of you, We implore you, to give a lead to your priests who assist you in the sacred ministry, and to the faithful of your dioceses, and to devote yourselves with all zeal and without delay to safeguarding the holiness of marriage, in order to guide married life to its full human and Christian perfection. Consider this mission as one of your most urgent responsibilities at the present time. As you well know, it calls for concerted pastoral action in every field of human diligence, economic, cultural and social. If simultaneous progress is made in these various fields, then the intimate life of parents and children in the family will be rendered not only more tolerable, but easier and more joyful. And life together in human society will be enriched with fraternal charity and made more stable with true peace when God's design which He conceived for the world is faithfully followed.

A Great Work

31. Venerable brothers, beloved sons, all men of good will, great indeed is the work of education, of progress and of charity to which We now summon all of you. And this We do relying on the unshakable teaching of the Church, which teaching Peter's successor together with his brothers in the Catholic episcopate faithfully guards and interprets. And We are convinced that this truly great work will bring blessings both on the world and on the Church. For man cannot attain that true happiness for which he yearns with all the strength of his spirit, unless he keeps the laws which the Most High God has engraved in his very nature. These laws must be wisely and lovingly observed. On this great work, on all of you and especially on married couples, We implore from the God of all holiness and pity an abundance of heavenly grace as a pledge of which We gladly bestow Our apostolic blessing.

Given at St. Peter's, Rome, on the 25th day of July, the feast of St. James[sic] the Apostle, in the year 1968, the sixth of Our pontificate.

PAUL VI

NOTES

LATIN TEXT: *Acta Apostolicae Sedis*, 60 (1968), 481-503.

ENGLISH TRANSLATION: *The Pope Speaks*, 13 (Fall, 1969), 329-46.

REFERENCES:

- (1) See Pius IX, encyc.letter *Oui pluribus: Pii IX P.M. Acta*, 1, pp. 9-10; St. Pius X encyc.letter *Singulari quadam*: AAS 4 (1912), 658; Pius XI, encyc.letter *Casti connubii*: AAS 22 (1930), 579-581; Pius XII, address *Magnificate Dominum* to the episcopate of the Catholic World: AAS 46 (1954), 671-672; John XXIII, encyc.letter *Mater et Magistra*: AAS 53 (1961), 457.
- (2) See *Mt* 28. 18-19.
- (3) See *Mt* 7. 21.
- (4) See Council of Trent Roman Catechism, Part II, ch. 8; Leo XIII, encyc.letter *Arcanum: Acta Leonis XIII*, 2 (1880), 26-29; Pius XI, encyc.letter *Divini illius Magistri*: AAS 22 (1930), 58-

61; encyc.letter *Casti connubii*: AAS 22 (1930), 545-546; Pius XII, Address to Italian Medico-Biological Union of St. Luke: *Discorsi e radiomessaggi di Pio XII*, VI, 191-192; to Italian Association of Catholic Midwives: AAS 43 (1951), 835-854; to the association known as the Family Campaign, and other family associations: AAS 43 (1951), 857-859; to 7th congress of International Society of Hematology: AAS 50 (1958), 734-735 [TPS VI, 394-395]; John XXIII, encyc.letter *Mater et Magistra*: AAS 53 (1961), 446-447 [TPS VII, 330-331]; Second Vatican Council, *Pastoral Constitution on the Church in the World of Today*, nos. 47-52: AAS 58 (1966), 1067-1074 [TPS XI, 289-295]; Code of Canon Law, canons 1067, 1068 §1, canon 1076, §§1-2.

(5) See Paul VI, Address to Sacred College of Cardinals: AAS 56 (1964), 588 [TPS IX, 355-356]; to Commission for the Study of Problems of Population, Family and Birth: AAS 57 (1965), 388 [TPS X, 225]; to National Congress of the Italian Society of Obstetrics and Gynecology: AAS 58 (1966), 1168 [TPS XI, 401-403].

(6) See 1 *Jn* 4. 8.

(7) *Eph* 3. 15.

(8) Second Vatican Council, *Pastoral Constitution on the Church in the World of Today*, no. 50: AAS 58 (1966), 1070-1072 [TPS XI, 292-293].

(9) See St. Thomas, *Summa Theologiae*, I-II, q. 94, art. 2.

(10) See Second Vatican Council, *Pastoral Constitution on the Church in the World of Today*, nos. 50-51: AAS 58 (1966), 1070-1073 [TPS XI, 292-293].

(11) See *ibid.*, no. 49: AAS 58 (1966), 1070 [TPS XI, 291-292].

(12) See Pius XI, encyc. letter *Casti connubi*: AAS 22 (1930), 560; Pius XII, Address to Midwives: AAS 43 (1951), 843.

(13) See encyc.letter *Mater et Magistra*: AAS 53 (1961), 447 [TPS VII, 331].

(14) See Council of Trent Roman Catechism, Part II, ch. 8; Pius XI, encyc.letter *Casti connubii*: AAS 22 (1930), 562-564; Pius XII, Address to Medico-Biological Union of St. Luke: *Discorsi e radiomessaggi*, VI, 191-192; Address to Midwives: AAS 43 (1951), 842-843; Address to Family Campaign and other family associations: AAS 43 (1951), 857-859; John XXIII, encyc.letter *Pacem in terris*: AAS 55 (1963), 259-260 [TPS IX, 15-16]; Second Vatican Council, *Pastoral Constitution on the Church in the World of Today*, no. 51: AAS 58 (1966), 1072 [TPS XI, 293].

(15) See Pius XI, encyc.letter *Casti connubii*: AAS 22 (1930), 565; Decree of the Holy Office, Feb. 22, 1940: AAS 32 (1940), 73; Pius XII, Address to Midwives: AAS 43

(1951), 843-844; to the Society of Hematology: AAS 50 (1958), 734-735 [TPS VI, 394-395].

(16) See Council of Trent Roman Catechism, Part II, ch. 8; Pius XI, encyc.letter *Casti connubii*: AAS 22 (1930), 559-561; Pius XII, Address to Midwives: AAS 43 (1951), 843; to the Society of Hematology: AAS 50 (1958), 734-735 [TPS VI, 394-395]; John XXIII, encyc.letter *Mater et Magistra*: AAS 53 (1961), 447 [TPS VII, 331].

(17) See Pius XII, Address to National Congress of Italian Society of the Union of Catholic Jurists: AAS 45 (1953), 798-799 [TPS I, 67-69].

(18) See *Rom* 3. 8.

(19) See Pius XII, Address to 26th Congress of Italian Association of Urology: AAS 45 (1953), 674-675; to Society of Hematology: AAS 50 (1958), 734-735 [TPS VI, 394-395].

(20) See Pius XII, Address to Midwives: AAS 43 (1951), 846.

(21) See Pius XII, Address to Association of Urology: AAS 45 (1953), 674-675; to leaders and members of Italian Association of Cornea Donors and Italian Association for the Blind: AAS 48 (1956), 461-462 [TPS III, 200-201].

(22) *Lk* 2. 34.

(23) See Paul VI, encyc.letter *Populorum progressio*: AAS 59 (1967), 268 [TPS XII, 151].

(24) See *Rom* 8.

(25) See Second Vatican Council, *Decree on the Media of Social Communication*, nos. 6-7: AAS 56 (1964), 147 [TPS IX, 340-341].

(26) Encyc. letter *Mater et Magistra*: AAS 53 (1961), 447 [TPS VII, 331].

(27) See encyc. letter *Populorum progressio*, nos. 48-55: AAS 59 (1967), 281-284 [TPS XII, 160-162].

(28) Second Vatican Council, *Pastoral Constitution on the Church in the World of Today*, no. 52: AAS 58 (1966), 1074 [TPS XI, 294].

(29) Address to Family Campaign and other family associations: AAS 43 (1951), 859.

(30) Second Vatican Council, *Pastoral Constitution on the Church in the World of Today*, no. 51: AAS 58 (1966), 1072 [TPS XI, 293].

(31) See *Mt* 11. 30.

(32) See Second Vatican Council, *Pastoral Constitution on the Church in the World of Today*, no. 48: AAS 58 (1966), 1067-1069 [TPS XI, 290-291]; *Dogmatic Constitution on the Church*, no. 35: AAS 57 (1965), 40-41 [TPS X, 382-383].

(33) *Mt* 7. 14; see *Heb* 12. 11.

(34) See *Ti* 2. 12.

(35) See *1 Cor* 7. 31.

(36) *Rom* 5. 5.

(37) *Eph* 5. 25, 28-29, 32-33.

(38) See Second Vatican Council, *Dogmatic Constitution on the Church*, nos. 35, 41: AAS 57 (1965), 40-45 [TPS X, 382-383, 386-387]; *Pastoral Constitution on the Church in the World of Today*, nos. 48-49: AAS 58 (1966), 1067-1070 [TPS XI, 290-292]; *Decree on the Apostolate of the Laity*, no. 11: AAS 58 (1966), 847-849 [TPS XI, 128-129].

(39) See Second Vatican Council, *Dogmatic Constitution on the Church*, no. 25: AAS 57 (1965), 29-31 [TPS X, 375-376].

(40) *1 Cor* 1. 10.

(41) See *Jn* 3. 17."

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

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

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

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

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

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

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

"What this would do right now, if a girl goes to get her birth control pills, she has to go to a doctor. I know a number of pharmacists, some of them as young as 20 years old, who have been doing it for a couple of years. What this would do would give people as young as 18 years old the power to prescribe that which only doctors have been able to do in the past. It is premature. It is very broad. I think that there are many dangers to it."

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

"I apologize for the fact that I am going to give a fairly lengthy speech because I believe it needs to be said. Emergency contraception, for those of you who are not familiar

with it, is a combination of birth control pills that can prevent pregnancy if taken within 72 hours of unprotected sex. This can happen in a range of situations such as when a condom breaks, a diaphragm slips, a woman forgets to take her birth control pills, or is she has been sexually assaulted.

"Emergency contraception has been available for 25 years. It is so safe, it is available over the counter without a prescription in many industrialized countries, and in California and Washington State. Currently half of all pregnancies in the US, or about 3 million a year are unintended and are terminated. The widespread availability of emergency contraception could potentially prevent many of these unplanned and unwanted pregnancies.

"Emergency contraception consists of a combination of high dose estrogen, and high dose progesterone similar to oral contraceptives. Emergency contraception can prevent pregnancies in four mechanisms: A) it can prevent ovulation; B) prevent fertilization; C) inhibit transport of the egg to the uterus; and, D) prevent implantation. Emergency contraception does not interrupt an established pregnancy.

"This bill sets up a mechanism for collaborative therapy similar to that in Washington State and California, the practice of dispensing drugs directly from pharmacist. Training and a protocol for pharmacist are included in the bill. This bill will increase access to emergency contraception for women who are now unable to get it in a timely manner that is the issue. Many times the need arises over the weekend when doctors offices are closed and a woman is unable to make a physicians appointment within 72 hours to get a prescription.

"If a woman were to go to an emergency room, she would have to pay the standard emergency room fee of about \$200. To add to the problem, the emergency room does not usually dispense this on a routine basis. Madame Speaker, this bill is simple. It provides access to woman to a product that is safe and effective. Women in this State have a right to reproductive freedom that is being compromised by lack of accessibility. California enacted a law just last year and other states are considering the same legislation at this time. The real important thing that I would like everybody realize here is that this an opportunity for a bridge to built across the wide divide on abortion. This is an option that should be acceptable to most all of us. Thank you very much."

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

"Thank you Madame Speaker. I think the previous speaker gave a good justification of why we heard this bill, and why we need this bill. I'd just like to clarify some of the points that were made that may have been a little misleading. First of all, we did have 5 votes in favor of it, although 3 were with reservations, and 3 were nay.

"Also one of the things that we did do is be sensitive to minors being able to get this emergency contraception. The Committee added the provision that you had to be an adult to get this emergency contraception. Not just anybody can do it, it has to be a trained pharmacist. The pharmacist has to follow standardized procedures or protocols developed with a physician or other persons authorized to prescribe contraceptive drugs. I think there are enough safeguards in this so that we don't have to worry about people abusing this, and women can access this type of emergency contraceptive when they really need it."

Representative Morita rose in support of the measure and asked that the remarks of Representative Lee be entered in the

Journal as her own, and that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Morita's written remarks are as follows:

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

"Chances are normal prescription requirements will slow down and delay action for an unfortunate incident when time is of the essence. To be effective emergency contraception must be taken within seventy-two hours after intercourse. By preventing unintended pregnancies, emergency contraception can reduce the need for abortion, an emotional turmoil that no women should ever be forced to face when there are other safe, options.

"Worldwide, a critical use for emergency contraceptive has been in cases of sexual assault. However, a study recently conducted in Washington State, during a period of time when almost 12,000 prescriptions were dispensed, found that 60% of the patients who sought emergency contraceptives did so due to contraceptive failure.

"Emergency contraception has been available for over twenty-five years. There is no evidence to suggest that knowledge of emergency contraception increase sexual activity among young people. Nor, according to a recent study in Scotland, allowing pharmacists to dispense this medication will not increase the chance of women utilizing emergency contraception instead of other forms of birth control. Although emergency contraceptives is much more effective than doing nothing, it only reduces the chance of pregnancy by about 70% as opposed to daily birth control pills or condoms whose effectiveness is in the high 90%. Further, I do not believe a woman would want to subject herself to an expensive, nausea causing contraceptive as a routine option for birth control.

"Good family planning services and options like emergency contraception can bridge the gap over abortion and women's reproductive rights. Preventing pregnancies is the first line of defense in avoiding an abortion. Emergency contraception should be readily available so that the decision of an abortion will never have to be contemplated by a woman fearing an unwanted pregnancy."

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

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2806, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY CONTRACEPTION," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce with Representatives Auwae, Davis, Leong, McDermott, Meyer, Moses, Ontai and Stonebraker voting no, and with Representatives Pendleton, Rath and Thielen being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 337-02) recommending that H.B. No. 1729, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1729, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE TRAFFIC CODE," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 338-02) recommending that H.B. No. 2031, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2031, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PERSONAL TRANSPORTATION," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 339-02) recommending that H.B. No. 2167, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2167, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Djou rose in opposition to the measure and in the interest of time, asked that the Clerk record a no vote for all Minority members present, and the Chair "so ordered."

Representative Djou continued, stating:

"I also rise in opposition to this measure. Madame Speaker, what it purports to do is a repeal, but it is a fake repeal. One of the issues that has come up for this Legislature, as we all know, is these traffic cameras. All of us have received a considerable amount of e-mails, telephone calls, and letters from our constituents. It is my position, and the position shared by this Minority Caucus, that this demonstration has quite clearly demonstrated that the public does not like it. The Department of Transportation does not know how to implement it, and we in the Legislature should have the courage to repeal it.

"Voting in favor of this bill, H.B. 2167 is a vote to attempt to save this program. The public does not want the traffic cameras saved. They want it gotten rid of and repealed. I certainly hope that we have the courage to repeal the traffic cameras. Thank you Madame Speaker."

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

"I just want to state a few points. One is, of course, and I speak in favor. I believe the Committee Report outlines it very well. I just want to add that the purpose of this bill, as it was in 1998, and still is, is to curb speeding as speeding kills. If I can give some idea, last year, there were 60 fatalities on highways, and most of that was due to speeding.

"Again I encourage the members to pass something that is right, not something that is opportunistic. We all know that speed kills. This bill will prevent speeding. I am very

surprised to hear what someone would want to protect those who wish to break the law. All you need to do with the cameras is to stay within the speed limit and you will not get a ticket.

"The Committee took it upon itself to listen to the concerns of the community and make some changes. Some of the changes are that your insurance premiums will not be affected in the event that you do get a ticket. I think that it is very important. That includes tickets from both for HPD and the State. So no more will your speeding tickets affect your insurance.

"Another item the public was concerned was that ACS would be using it as mean of making money. So the bill provides that there will be a flat fee, one payment only.

"Another major concern, of course, is who is driving. 'It is not me, it is the other guy. Therefore, I will not pay the ticket.' The ACLU is assisting people to trying to circumvent the law. So the picture will be taken in the front of the vehicle where the driver's image will be shown very clearly as to who is driving the vehicle.

"Also included in the language of the bill is that the cameras will only be situated on highways where there is a high incidence of accidents and fatalities, and that they will stay away from speed traps. If you read enough in the bill you will find that it states that also. I believe this was the concern that was brought about by the community. That language was very clearly in there.

"So my good Representatives, if you truly care about safety on highways, and want to cut the fatalities, I believe that you should vote for this measure with all earnestness because of all the measures we have, if we are looking for something where we can protect our community, this is the bill. Thank you very much for allowing me this time to speak."

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

"I do believe the Transportation Committee made an effort here to improve the measure. I agree wholeheartedly with Part I of the bill which is a repeal of the camera system that we now have. I disagree with many aspects of Part II which reinstates a new program. As to the safety, if we really want safety on our highways, let's have police cars out there on the freeway like there used to be, like there are when there are demonstration projects. Let's have more police out on the streets. I believe we could use cameras for intersections for red light running. We could use them on some of the streets where there is racing. But I don't believe that they are any good on the freeway.

"Let me tell you one of the problems that I had with this measure. As the Speaker Emeritus just pointed out, the new system is mandated to take a frontal view of the car showing both the license plate and the face of the driver. I asked the vendor, 'First, can you do that?' He said, 'No, we'd have to develop new software to be able to get an image of the face.' I said, 'How long would that take?' He said, 'Maybe six months.' Remember this is developing some kind of procedure, whether it is infrared photography, whether it is photo photography. They don't know. They will try. They think six months, or maybe longer. Until then, they can't do it.

"We asked what about during the night. How would you take a picture at night of a persons face? They said, 'We'd have to put another flash to take a picture of the face.' So there would be a flash on the car and flash on the face. Of course it would probably be reflected off the windshield, they said, so it might blur the image. 'It would blind the driver,' he said

without any prompting from me. So you can see, this bill, as it is written is not going to work. It can't work. There is no technology to do it today. We have many, many problems and that is just part of it. It is a 56-page bill, if I remember correctly, so there are a lot of things in there to be looked at.

"So we are not repealing the current system, we are creating another system which can't be done, and we will probably create many new problems, so for those reasons I would have to vote no."

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

Representative Kanoho continued, stating:

"Obviously, those from the public who expressed their opposition to cameras, do so because they want to continue to speed without the fear of being ticketed. Those of us in the Legislature who do not have enough courage to continue with the program are saying that it's okay for you to speed, and that is not the right answer. Thank you."

Representative Djou rose to respond, stating:

"Thank you Madame Speaker. I originally rose in opposition to this measure and spoke on behalf of the Minority in opposition to this matter. I would like to just clearly state for the record that speaking for myself as well as for the Minority, none of us are opposed to traffic safety. None of us favors speeding. What we all have problems with is the traffic camera system.

"It is my position that this system is actually hindering traffic safety. May I further remind the members of this Body that across the hall in the Senate Chamber, it is the Senate Vice President that ..."

Representative M. Oshiro rose to a point of order, stating:

"Any reference made to the other Body is not in order."

Representative Djou continued, stating:

"I apologize, Madame Speaker. This bill has been referred to as a *shibai*."

Representative Gomes rose to a point of inquiry, stating:

"The Majority Leader pointed out that that was out of order. I would just like to know why that is out of order, to refer to the other Body. Thank you."

The Chair addressed Representative Gomes, stating:

"According to the rules you cannot state anybody's name in this Chamber. Thank you Representative Gomes."

Representative Gomes responded, stating:

"I don't recall hearing anybody's name other than the reference to the President of the Senate, I think it was, or one of the office holders."

Vice Speaker Luke: "Would you like to appeal the ruling of the Chair, Representative Gomes? I made a ruling that Representative Djou should refrain from saying the Vice President's title."

Representative Gomes: "Well, at least cite a rule, Madame Speaker, as to what rule it is that you and the Majority Leader are citing. Because often you folks stand and rise on points of order like this without citing a rule in particular."

Vice Speaker Luke: "Representative Gomes, would you like to appeal the ruling of the Chair?"

Representative Gomes then appealed the decision of the Chair.

The Chair addressed the Body, stating:

"According to the Chair's interpretation of the rules, you can't cite another person's name, whether it is in this Chamber or the other Chamber."

An appeal of the Chair's decision was put to vote by the Chair and upon a show of hands, the Chair's decision was upheld.

Representative Gomes rose to a point of order, stating:

"It was the citing of the rule that I was looking for from the Speaker's rostrum. And also the reference; there was no name mentioned. It was to an office."

The Chair addressed Representative Gomes, stating:

"Representative Gomes, in order to proceed in floor session, whatever the Body feels proceeds, and whatever the Body decides will commence. So a ruling of the Chair has been made. An appeal was made. And a ruling on the appeal has been made. So if we can proceed. You can find out the specific rule during recess.

"Representative Djou, would you like to proceed?"

Representative Djou rose to a point of inquiry, stating:

"I think the vote might have been reversed. The question on the floor was whether or not you want to appeal the ruling of the Chair. If I'm not mistaken, a yes vote means that you do want to appeal the Chair? Or, excuse me. A yes vote was made to uphold the Speaker's decision and a no vote was to overturn and to ask for an appeal? Consequently a majority vote was in favor of calling an appeal, if I am correct."

At 8:10 o'clock p.m., Representative Souki requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 8:10 o'clock p.m.

At this time, the Chair addressed the Body, stating:

"Representative Djou, thank you for the clarification. Madame Clerk, the ruling on the roll was that all those in favor of the appeal were to vote yes. So if you support the appeal, you would have voted yes. And if you oppose the appeal, you would have voted no. So the ruling on the appeal has been overruled. Representative Djou, you have the floor."

Representative Djou continued, stating:

"Thank you Madame Speaker. I know you began this evening by trying to admonish all of us to keep the proceedings short. I don't know if the admonishment is working. But I would just like to reiterate, on behalf of myself and the Minority Caucus, that again, none of us are opposed to traffic safety. We all believe it is important. Our problem is with the

traffic cameras which do not work. The public does not like them. We have a responsibility, as public servants, to obey the commands and wishes of our constituents. This bill has been characterized as *shibai* and it should be voted down. Thank you."

Representative Moses rose to respond, stating:

"In testimony before the Transportation Committee, the police department said that they wanted an exemption from the traffic cameras because they have to speed in the line of their duty, and without somebody on the radio in another patrol car knowing why they are speeding, they will be ticketed by the cameras. So they object to the cameras and asked us to pass a separate law to exempt them.

"I think the police are concerned with safety, especially traffic safety, Madame Speaker, and so are we. We are not opposed to safety. I talked about how we want the 'red light' cameras. We want cameras on highways where there is speeding. We don't want the cameras on the freeway because of all the things that have been brought out. You cannot take the picture of the face, and so you can't identify the person.

"Also this bill says you are guilty until you prove that you are innocent. It is contrary to the American way of life. You are not innocent until proven guilty. You are guilty. When this camera says that it is you in the car, unless you can definitely prove that you were not the person in the car. It is just contrary to our beliefs."

Representative Souki rose to respond, stating:

"Yes Madame Speaker, thank you very much. First of all I need to rebut a couple of items. One is that in regard to having the camera take pictures in the night and the flashing in your eyes, upon further review of this, you have Denver, and Oxnard, California, and some jurisdictions in Australia where they do take pictures at night. They do have the software available for taking pictures at night and that will be used by the State in their negotiations. So there is software available.

"In regard to having more policemen on the roads. If that was the case, they would be on the highway now. The fact is that they don't have enough policemen because young people don't want to apply to be a policeman. They go away for the jobs because the salary is too low. It was the police force, it was HPD themselves that came in and asked for this program as a supplement to what they are doing. Not to supplant what they are doing, but as a supplement. Based on this, and the need to provide more safety on the highways, and to protect our families on the highways, we proceeded to pass this bill, and may I say with 95% or more of you voting for this on both sides of the aisle? That is why I am very surprised that now, suddenly, we all say that we are for traffic safety, but we are not for the cameras, when we know full well that HPD doesn't have the capability, right now, to provide the services, and the protection that the people deserve and need. So come on, let's talk straight and be fair about this. Thank you very much."

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

"Thank you Madame Speaker. In 1998, everybody was on the same page and there was no problem with passing the bill that would increase road safety."

Representative Gomes rose to a point of order, stating:

"I think that he is off the track on the substance of the bill itself."

The Chair responded, stating:

"I believe he is talking about the bill itself. Thank you Representative Gomes."

Representative Gomes continued, stating:

"I think he is talking about 1998."

The Chair responded, stating:

"This bill refers to a 1998 bill. Thank you Representative Gomes. Representative Espero please proceed."

Representative Espero continued, stating:

"Thank you for at least allowing me to finish my first sentence Madame Speaker. That was called the introduction to the sentence. If I may continue.

"In 1998, a piece of legislation was passed regarding traffic safety. In 1999, there were some changes but it still passed with no opposition, and everybody felt we were going in the right direction."

Representative Djou rose to as point of inquiry, stating:

"The speaker is stating that there was no opposition to this bill. I believe there are two members of this House, both in the Minority Caucus, who oppose this bill. Thank you Madame Speaker."

The Chair responded, stating:

"Thank you for your point. Representative Espero, please proceed."

Representative Espero continued, stating:

"Thank you very much for that information. Now we are at a point in time where we are implementing this program, and people are getting caught, and they are getting ticketed. They are getting cited for speeding, for breaking the law.

"Now we all know that speeding is against the law. We all know that there are many accidents happening on our freeways. We all know that this law is a good effort to reduce these accidents. This is a pilot demonstration project. It is not permanent, it is not long-term. It is a pilot demonstration project. With these types of projects, you try to make a determination whether it is good for the public, whether it is good for the people of Hawaii. Is there a positive benefit coming out of this or is there a negative benefit coming out of this?"

"Now of course if you are getting cited, then it is a negative circumstance. In my opinion, I have been from Ewa Beach into town since the beginning of this thing, and traffic is slowing down. There is a definite reduction in the speed and I think, logically and theoretically, when you slow down you lessen the risk of accidents. I have a 16-year-old son and a 17-year-old son who have just started driving. I see this as an opportunity to teach my children the importance of safety on the roadways. They understand this debate. They know what is going on. If this law is going to make the road safer for my kids, and I can breathe a little easier knowing that there are not as many speeders as there were three months ago, six months, or a year ago, then I am willing to give this law a chance, this pilot demonstration project, which had minimal opposition when it was discussed in the previous years.

"This debate is far from over. We have got many weeks to go. We have got other colleagues to deal with. But the bill we passed is a very good compromise. Yes, we could easily just put our tail between our legs and run away and say, 'Sorry we passed this bill. We did not mean to get everybody mad and upset.' But I think that it would be much better, wiser, and courageous for us to say, 'You know what? There were some problems with the bill. And the Department of Transportation did a poor job of implementation and public relations.' But we have an opportunity to fix it, and if we can, and we are still in that stage, if we can, most of us in this room, I believe, are banking on that we can.

"That is our job, to look out for the public good and this is a bill which will definitely improve the quality of life for all of us. As a matter of fact, some of us may be alive because of this bill, or some of our neighbors, and some of our friends. So let's give this bill a chance, Madame Speaker. I think we are going in the right direction and hopefully when people see the wisdom of our decision down the road, they will understand. It is not all about people calling in on the radio, and radio announcers getting everybody to talk about bills, or it is not about how many letters to the editor are written

"In the *Star Bulletin* poll recently, 43% of the people said it was a terrible idea; 57% said it was a good idea or they did not care. Of the 43% who were against it, 20% did not like it because of the percentage that the vendor would get versus a flat fee. Well this bill has addressed that issue head on, we dealt with it.

"So I think if you talk to people, and I've been talking to many in the last 10 days and giving them 2 options: Let's get rid of this bill. Let's repeal it. Or let's keep it as a pilot demonstration project and see if it will work. The majority of the people I've spoken to, I'd say easily 6 to 7 out of 10 have said, 'You know what? I am willing to give it a try because despite all the ruckus that is going on out there, the people have slowed down on our roadways.' I don't think that there is anybody in this room that can say that that has not been the case. Thank you Madame Speaker."

The Chair addressed Representative Moses, stating:

"Representative Moses, you already used up your two speaking turns."

Representative Moses responded, stating:

"Yes, but now there has been information brought up which has already been addressed which I should elaborate on."

The Chair responded, stating:

"Representative Moses, you may want to give your comments to somebody who can speak because you already used up your two speaking turns."

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

"One of the objections was that there is not enough light in the cab or the driver's compartment to take a picture at night. If that is the case I would urge that we mandate all drivers to take up smoking. Thank you."

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

Representative Case's written remarks are as follows:

"I agree with many of the concerns raised on the traffic cam system. I especially feel that: (a) speed limits are too slow on many roads, presenting a real problem for law-abiding citizens especially given DOT's "zero tolerance" policy; (b) at least at lower speeds, there should not be any insurance premium consequences; and (c) the payment schedule based on the number of tickets issued at a minimum detracts from public confidence in the system. Accordingly, I signed Senator Hogue's joint letter asking DOT for a moratorium effective immediately so we can all 'stop, look and listen' and get to the bottom of these issues.

"This bill is a good attempt at addressing the details of implementation of the system. Until we exhaust these alternatives, I'm not ready to support an outright repeal of the authority to run a photo enforcement program. I think it has value in controlling clearly excessive speeding if better implemented and controlled, and that has to be our first and preeminent priority: making our highways safer."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2167, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC ENFORCEMENT," passed Second Reading and was referred to the Committee on Finance with Representatives Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Stonebraker and Whalen voting no, and with Representatives Pendleton, Rath and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 340-02) recommending that H.B. No. 2493, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2493, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 341-02) recommending that H.B. No. 2424, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2424, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS, OR ITS EMPLOYEES," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 342-02) recommending that H.B. No. 2300, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2300, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 343-02) recommending that H.B. No. 2521, HD 1, as amended in HD 2, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2521, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CONTROL OF DISEASE," was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 344-02) recommending that H.B. No. 2002, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2002, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 345-02) recommending that H.B. No. 1816, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1816, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COASTAL ZONE MANAGEMENT," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 346-02) recommending that H.B. No. 2091, HD 1, as amended in HD 2, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2091, HD 2, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"My objection is that we are selling public land in an area which is a very opinionated area. They are not going to like this because it has never been told to the public that this land was going to be sold. It is public land, it belongs to the people and until there is a demand for changing this from public to private use, I have to object.

"My real objection was to the project, that it was going to be sold. But that has been deleted so I still can't vote for this until the people of Kona decide that is better in private hands than in public hands."

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

"Thank you Madame Speaker. Please ask the Clerk to please register a reservations for me for the reasons stated by the Representative from Puna. Also, this creates another special fund which I have problems with. Thank you."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2091, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LAND USE," passed Second Reading and was referred to the Committee on Finance with Representatives Hale and Morita voting no, and with Representatives Pendleton, Rath and Thielen being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 347-02) recommending that H.B. No. 2710, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2710, HD 1, entitled: "A BILL FOR AN ACT RELATING TO OCEAN LEASING," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 348-02) recommending that H.B. No. 2545, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2545, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INDUSTRIAL PARKS ON PUBLIC LANDS," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 349-02) recommending that H.B. No. 2443, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2443, HD 1, entitled: "A BILL FOR AN ACT A BILL FOR AN ACT RELATING TO THE PREVENTION OF THE FILING OF FRIVOLOUS FINANCING STATEMENTS," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs with Representatives Pendleton, Rath and Thielen being excused.

Representatives Kanoho and Abinsay, for the Committee on Water and Land Use and the Committee on Agriculture presented a report (Stand. Com. Rep. No. 350-02) recommending that H.B. No. 1978, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1978, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1978,

HD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND USE," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representatives Kanoho and Morita, for the Committee on Water and Land Use and the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 351-02) recommending that H.B. No. 2552, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2552, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

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

"Just very briefly, I really, regrettably, have to stand in opposition to this measure. I commend the Chair for trying to come up with a compromise measure, but just for basically bad policy reasons, I cannot go along with this bill.

"First and foremost, I think that the primary issue for me is, I think, that although they tried to come up with a compromise, it looks like it may be unconstitutional under my analysis. It creates, what is known under the Constitution as a 'legislative veto.' And under the Supreme Court case of INS v Chadha, they said that as a legislative body, when we grant authority to an agency, we cannot be attaching strings such as letting us have the power of disapproval over any sort of actions that the Board may take. So for that reason I think I must oppose. Even the compromise measure they came out with, I think that it actually subjects us to a potential lawsuit.

"Secondly, I just think it is really bad policy. Safe harbor bureaus were developed in order to encourage private landowners so that they could enter into safe harbor agreements and not worry about harming endangered species. What we are doing is extending this to public lands, and I understand that there is a specific project for which this has been created. And while I do recognize that there are very valid points in that project, for us to just *carte blanche* and broadly create a hole, an exemption, in the Endangered Species Act is really bad policy for me.

"I know people may not really care about endangered plants, but for me, when I look at the endangered species, there are only a very, very few of them. That is why they are endangered. We as a public, and we as a State, have a fiduciary duty to make sure that we protect and preserve them, and we cannot be allowing ourselves to enter into agreements where we can harm and kill them. Thank you."

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

"First of all, I'll go into the generalities of this. When you find an endangered species, if you are a private landowner, you are allowed to move that endangered species by taking plantings and replanting it in three different locations. After they take root, then you can get rid of the endangered species in the original place because you got it growing in three other habitats. But you can't do that on public land, so the problem here, and this does pertain, as the previous speaker said, to a specific place.

"This is where the North/South Road and Kapolei Parkway are, or are going to be, and it possibly affects the land where the UH West Oahu is to be. All that area used to be sugar cane field and there is an endangered plant, some call it a weed. It was not known to be there for all these hundreds of years because it was sugar cane. Now, lo and behold, when they burned off all the sugar cane for the last time, out of the ashes came these species, which nobody knew was there. Nobody missed it all these years, but it is there.

"The State, who is the landowner, removed some plants and replanted them, and they established new plantings, and they are growing and thriving in different areas on this island. In fact, I believe it might be on a Neighbor Island also, so they are spreading these species. Now they find out, oops, we couldn't do that because it only applies to private land. It basically stops the development of the Second City. If that is the wish of this Body, then so be it. Thank you Madame Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2552, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEFINITION OF LANDOWNER FOR SAFE HARBOR AGREEMENTS AND HABITAT CONSERVATION PLANS," passed Second Reading and was referred to the Committee on Finance with Representative B. Oshiro voting no, and with Representatives Pendleton, Rath and Thielen being excused.

Representatives Ahu Isa and Saiki, for the Committee on Economic Development and Business Concerns and the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 352-02) recommending that H.B. No. 1795, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1795, entitled: "A BILL FOR AN ACT RELATING TO PROFESSIONAL EMPLOYMENT ORGANIZATIONS," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representatives Abinsay and Takumi, for the Committee on Agriculture and the Committee on Higher Education presented a report (Stand. Com. Rep. No. 353-02) recommending that H.B. No. 2194, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2194, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII AT HILO," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representatives Abinsay and Kanoho, for the Committee on Agriculture and the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 354-02) recommending that H.B. No. 2168, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2168, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2168, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE WAIHAOLE WATER SYSTEM," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representatives Abinsay and Kanoho, for the Committee on Agriculture and the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 355-02) recommending that H.B. No. 2150, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2150, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representatives Abinsay, Morita and Kanoho, for the Committee on Agriculture and the Committee on Energy and Environmental Protection and the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 356-02) recommending that H.B. No. 2242, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2242, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HYDROELECTRICITY," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representatives Arakaki and Kahikina, for the Committee on Health and the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 357-02) recommending that H.B. No. 2239, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2239, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAID," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representatives Takumi and Ito, for the Committee on Higher Education and the Committee on Education presented a report (Stand. Com. Rep. No. 358-02) recommending that H.B. No. 2558, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2558, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STUDENT LOANS FOR TEACHERS," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Abinsay, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 359-02) recommending that H.B. No. 1940, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1940, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE CONTROL

OF FIREWEED," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Abinsay, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 360-02) recommending that H.B. No. 2248, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2248, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"Madame Speaker, I am standing with in support with reservations and will be waiting to see what comes out from Finance to determine whether I'd support it 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. 2248, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS FOR PROCESSING ENTERPRISES," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representatives Chang and Ahu Isa, for the Committee on Tourism and Culture and the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 361-02) recommending that H.B. No. 1945, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1945, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAX CREDITS," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representatives Saiki and Ahu Isa, for the Committee on Labor and Public Employment and the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 362-02) recommending that H.B. No. 2641, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2641, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce, seconded by Representative Lee.

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2641, entitled: "A BILL FOR AN ACT RELATING TO RESTRICTIVE EMPLOYMENT COVENANTS OR AGREEMENTS," passed Second Reading and was referred to

the Committee on Consumer Protection and Commerce with Representatives Pendleton, Rath and Thielen being excused.

Representatives Morita and Hiraki, for the Committee on Energy and Environmental Protection and the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 363-02) recommending that H.B. No. 2836, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2836, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2836, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY," passed Second Reading and was referred to the Committee on Finance with Representative Gomes voting no, and with Representatives Pendleton, Rath and Thielen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 364-02) recommending that H.B. No. 1730, be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1730, be referred to the Committee on Finance, seconded by Representative Lee.

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

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

"This is one more bill where we are attempting to raise fees. Even though it is a small amount, we can 'nickel and dime' the people of these islands until they are dirt poor and homeless, and then we won't have any means to support them. Unless we appropriate more funds from the Environmental Fund which we did earlier."

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

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

"I believe it is a commendable use of money, however this is raising a fee."

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

"Madame Speaker, the purpose of this bill is to support the growth of the Driver's Education Program which was mandated for all drivers under the age of 18. We accomplished this goal by increasing, from \$2 to \$3.50, a fee currently borne by all insured drivers. Of the additional \$1.50, \$1 will benefit the DOE and 50 cents will go to the Department of Transportation.

"Madame Speaker, the additional funds will be used to certify and pay additional driver education teachers, and

purchase driver education automobiles and classroom instructional materials. The Fund will also help support the DOE traffic safety program which promotes seat belt use, pedestrian safety, bicycle safety, Project Prom, and Project Graduation, as well as student advocacy for traffic safety issues. Madame Speaker, this bill will contribute to the expansion of programs which are sorely needed in each and every one of our communities.

"Your Committee on Education received a petition of over 4,000 signatures. The teacher who brought the petition informed the committee that the wait-list for driver education classes at one Oahu high school is as high as 150 students. With increased fees, an additional 2,025 students can enroll in the Driver's Education Program. This tremendous demand requires additional resources. Madame Speaker I urge the passage of this bill. Thank you."

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1730, entitled: "A BILL FOR AN ACT RELATING TO DRIVERS EDUCATION FUND UNDERWRITERS FEE," was referred to the Committee on Finance with Representatives Djou, Gomes, McDermott, Meyer, Moses and Stonebraker voting no, and with Representatives Pendleton, Rath and Thielen being excused.

Representatives Ito and Saiki, for the Committee on Education and the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 365-02) recommending that H.B. No. 2037, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2037, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"Madame Speaker, I would like to register a no vote on this bill, and I'd like to explain why, because this explanation will cover for all the education bills that I am voting against. This bill is good insofar as it abolishes the Board of Education. I am all for that. I think this bill gives much more power to the Superintendent.

"On page 4, "...the superintendent, ... shall establish such bureaus and other offices and employ staff consultants as may be necessary for the proper and efficient administration of the department;..." I think this is not the direction we want to go. We've eliminated the elected School Board, and we are giving an appointed Superintendent powers that have no oversight, and we are not abolishing that terrible bureaucracy, that Department of Education here in the Honolulu, which really doesn't serve the Neighbor Islands at all.

"My main objection to this bill, Madame Speaker, is the fact that you are setting up area boards, which I would be for, but they are not elected boards. Three members are appointed by the Superintendent, which gives the Superintendent more power than they have now. Four members are elected by the people. Supposedly that gives them a majority. In my opinion, if we don't put before the people, a plan that allows completely

elected local boards, we will never get the support and such a constitutional amendment will ever pass. Thank you."

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

"First of all I, want to congratulate the Chair of the Education Committee for his hard work in bringing together all of the expertise in Hawaii to begin crafting, truly, a revolution in our system of public education. He's shown, courage, skill, and especially humility in this process.

"This bill, and its companions replace our existing statewide Board of Education to establish 15 local community school boards, which will have the policymaking and oversight authority over the schools in their area. I know there is going to be some discussion, probably, on the specifics within this piece of legislation. I want to make it clear what the intent of the various drafters of this bill was, and what the intent of the Committee is.

"Imagine that we are taking the authority that is currently vested in the statewide Board of Education and we are dividing it by 15, and we are giving it to these local school boards. So if that is not what this bill accomplishes by its language, then please, I want the members to know that is the intent of this bill, and that is certainly how we tried to draft it.

"It is my belief that this represents a necessary but not sufficient condition for education success. Until we finally resolve the question of who is in charge of what, we will have hard time focusing on what matters the most in improving student achievement. We need clear lines of authority and that is what this bill gives the DOE. With your indulgence I'd like to summarize the structure that this establishes.

"At the top you have the Governor who appoints the State Superintendent, but this is more like what other states have in a secretary of education. It is really an overseer of the various school districts and the various school boards with their superintendents. This Superintendent will be responsible for insuring federal compliance, overseeing statewide standards, insuring equitable funding and evaluating the performance of the 15 local school districts. Each of these 15 school districts will have a school board that should have the broad authority to set budgets, policy, and hire and fire the local district superintendents.

"This board will be comprised of four members who are elected, and three members who are appointed. This creative, hybrid board, the 'brain child' of both, I believe, the Vice Chair of Transportation and the former Majority Leader from Manoa, ensures that both professional expertise and public participation will occur on the board. This restructuring will be accomplished by re-deploying the statewide office staff from their downtown offices, to their local districts. This is an important part of the equation because I think it addresses some of the concerns that the Representative from Puna has expressed. This will be accompanied by a corresponding deployment of the bureaucratic structures out into these various school districts.

"This legislation changes everything, so I think all of the members here have to brace themselves and expect that the good people who are running the system currently, will oppose this bill with increasing determination and with increasing volume. The decision-making authority regarding the structure of the DOE and the BOE lies squarely in our hands, not the Governor, not the board, and not the Superintendent.

"This bill is a positive start and an indication of the seriousness and the depth of our thinking. I want to especially

commend some of the Minority on the Committee for working collaboratively on this bill. I think it's an excellent work in progress and it bodes well for this Session."

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

Representative Fox continued, stating:

"Thank you Madame Speaker. I am going to speak in favor of this with deep reservations. I would first like the comments of the Representative from Puna entered into the record as if they were my own, and just to point out in that in this respect, that she made a very relevant point. The elected board of education needs to be replaced by elected boards at the local level, with the powers that the BOE has.

"It is fine, as the Representative from Makiki said, to establish a superintendent who does the responsibilities that are done in other states. But the main locus of power has to go down to these area boards, and this bill does not do that job. It does not do the job. I vote with reservations only because I see this as a work in progress. I see the possibility of some further changes being made, particularly if the Majority continues to listen to the wisdom that comes from our members of the Education Committee. They are working hard to drive this in the right direction. I hope that further changes can take place in a positive direction. However I do know that a shift from a draft of this bill to the final version of this bill, once again, shifted it back toward increased power in the hands of the Superintendent. This is almost bad faith and very disturbing to me. Thank you Madame Speaker."

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

"I want to assure that the spirit of this bill is really dividing the DOE into two sets. There is the state level from the Superintendent. Our intention is to have a secretary, like an advisor to the Governor, for matters of statewide education and educational policy. The key is that we want to specify and limit the powers. I know I opposed some specific paragraphs in the bill, but like the entire concept that we are moving toward reform. So I am in direct consultation with the Chairman of the Education Committee and my Caucus members to try and negotiate better language to limit these powers and that is what I urge our colleagues to do. Look at that limit on the powers, and put the responsibility into the hands of the voters closer to these local elected boards. That's inherently how we are going to achieve accountability.

"Right now we have given license to our constituents to point fingers at us, point fingers at the Board, point fingers at the State Superintendent, I think, by giving this power and the authority to spend as they see fit. They need to look into their mirror if they see problems in their respective districts. I urge that we look to ensure that we decentralize and give that power, with all the spirit and our full of faith and encouragement, that they spend money wisely."

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

"Madame Speaker, I speak in favor of this bill with deep reservations. And I hope this bill will go on to the next committee and hopefully be put aside and refined. And my bill, which is incorporated into a Senate bill, would come over, and we would have an opportunity to discuss how we could strengthen it, and empower an elected, a fairly elected, BOE.

"Back to this bill. Members, you have before you, towards the end of your agenda, Committee Report No. 408, H.B. 2003, which is a constitutional amendment to abolish the BOE. If it passes, which is not sure because in two previous attempts the voters have not turned down the constitutional amendment to abolish the BOE because it is pretty obvious that once you give the vote and the franchise to the people, they are not going to give it back. I will talk about it when the bill comes up.

"The fact is that this is too fast and too soon. That is what is going on with our education reform bills that I've seen since 1975. They are too fast, too soon, incomplete, not comprehensive enough, and not thoroughly worked out. Give us time to do a good job. That is why all of the reform movements in the past, all the reform bills have failed. What this, in effect, does is simply make a 'three-boss system' into a 'two-boss system.'

"The other bill calls for a selection committee, a commission of the Superintendent, and the names would be submitted to Governor and then the Governor would select one person. In this bill, in this particular case, the Governor appoints a Superintendent and the Superintendent merely coordinates, if you look into the bill.

"Let's go back to who is accountable. It's a 'two-headed monster' instead of a 'three-headed monster.' If you take a look at your 15 complex supervisors who would be appointed and hired by your board, there would be members who are appointed and those who are elected. They would have a whole bunch of rules and functions and responsibilities of the area, and the complex supervisor.

"And very little has been said about rules and functions and decision making powers of the area board. This is why I am saying that if you take a look at that bill, there is very little written about it. This is like the problems we have with charter schools today. We developed a bill which would establish charter schools and we are skimping details in the statutory requirements, and we have problems today because of the fast, quick way, of saying, 'Let's give the power to the people and let them form charter schools.' This includes those who I think, are a part of the private school venture.

"If you look at the bill, going back to the 'two headed monster,' we have the Governor who, in reality, would appoint the superintendent, would appoint people on our complex board, and my question is, where's the people? We've taken away the elected BOE and we are trying to replace them on the complex level, and yet they are elected and appointed people. The Governor still has a hand in terms of appointing members of the board. The board then hires and fires, I presume, firing him or her, the complex supervisor. What I am saying, one more time is, where are the people?

"Like the problem we have today, which is 76 'lay superintendents,' what we put in the bill is a very prescriptive way of saying that this is how you are going to run the public schools. We put in things like curriculum, a 6-year master plan, etc. It is a laundry list that we can take out of the CEO of Chicago, the CEO Cleveland, and the CEO of Detroit. This is now, going into the CEO, appointed by the mayor to run the school system. Those kind of things can be put together in a list, but how to implement it is the problem. The bill calls for implementation by June 30, or whenever the Governor signs the bill. If you want to structure bills or laws around then, LRB, the Superintendent will be working with the LRB and could do it by 2003, and certainly the final recommendation for legislation by 2004. I think the intent of the bill is to allow these kinds of changes to take place by 2004 rather than upon effect. This is the flaw of the bill, well intention but not well thought out yet thoroughly.

"In Detroit we decentralized the school board. We have a central board with 8 school districts."

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

Representative Yonamine continued, stating:

"It took one full year of research by staff who are hired to come up with data, public information meetings, going out into the communities and getting full input in terms of decentralizing the board and what the rules and functions and powers of the local district school board would be. In this case, that would be the area board. If it takes Detroit one year, are we going to do it what 6 months? Please. To 'take effect immediately' is like saying we have the quick fixes already in the bill. I very seriously doubt that we can do all of these things upon effect. My point to you colleagues, is take your time, don't rush, and then let's see if we can do a better job, but different models of which we can govern public schools.

"Now my bill is coming over so let's also look at that too. Thank you."

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

"First of all I would like to commend all the people that are working very hard on this. I agree with the previous speaker that maybe that date is a little premature. Give it a week or two more. But we should work very hard before the end of this Session to try to 'flesh out' all the details.

"One of my main reservations, Madame Speaker, is that this shouldn't pass without the constitutional amendment in H.B. 2033, H.D. 2. But I think that also needs a minor amendment. That should be easily done by having the two of them taken together with the phrase, basically, that neither one takes affect without the other. Otherwise we are going to have bigger problems than we have now. With that kind of caveat, I think we can move forward on both of these. We all need to work together and work very hard to make a truly good product by the end of this Session.

"Everybody here, and everybody in this State knows that we have problems with the current BOE and even the DOE structure. So we need to make some changes and we have to work hard and do it. Let's not put it off for a future legislature. We don't know how many of us are going to be here and how many of us know what is going on. It is just not proper for us to put it off for sometime in the future when we should fix it now. That is what we are paid the big dollars for. Thank you Madame Speaker."

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

"I would like to commend the Chair of the Education Committee for pursuing real reform. Real reform of our centralized school system, which by demonstration, has been insufficient in many ways. One of the very good ideas in this bill is having local school boards, many local school boards. School boards which are small enough that the constituents would know their board members, and would know them all. That is a commendable idea. I think that is really at the heart of decentralization. That issue should be in H.B. 2033 or the centerpiece of the constitutional amendment bill, rather than in this particular bill. I know that this is a work in progress and I am voting in favor of this bill. I commend the Chair for pursuing this, probably, politically difficult project. I am hopeful and optimistic that the changes that evolve throughout

this Session to give us real reform will be excellent and we will be proud of this after May 2nd. Thank you."

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

"I rise in support as much for what this bill represents as what it says. In my observation, this bill, more than any other bill that is before us thus far, any other action we've taken, represents what the public wants us to do, which is to take on issues, tackle them, make some tough decisions against some institutional opposition, on a bipartisan basis. I think that is what this bill does represent, if it says what the Majority Whip says it says, which is why I am voting for it, then this does represent real reform.

"I would observe that most of the objections that I've heard thus far, all of which have been in the reservations category, are really with the details rather than the overall concept. That is something valuable to know that at this point, just working out the details, but we are all in agreement on the concept itself. Let's not let this opportunity slip away. This is one that we can really win on and let's push this one through. Thank you."

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

"The reservations are again, in regard to the details. Just to echo the remarks of the previous speaker, the important thing that this represents, and I must say I am very heartened before getting into that, that this Body is working in the manner that it is.

"The various parties, on both sides of the aisle, we know what needs to be done, and it looks like the political will is there to get it done. On the details, we may not all agree 100%. The most important measure, for me, about this is that I think it is going to return a sense of hope to the public, to our schools, to the education system.

"We can talk about accountability and results and what not, and we should and we will, and those are all important. But in the main, the public has long ago lost confidence in our school system, by and large. I think this measure, and the constitutional amendment, if we pass them, are going to provide a renewed sense of hope, and renewal, and ownership, and confidence in our school system. And we need that in a big way.

"So I commend all who have been so active on this and engaged in it on the details. Really, I am excited about it, although not blinded by my excitement, and I remain cautiously optimistic that we are going to do something very significant and very good for the State of Hawaii. Thank you."

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

"I think my thinking was best expressed by the Representative from Puna and also the Representative from Pearl City. I am looking forward to decentralized power down to the local school boards. I am hoping that at the end of the Session, I will be able to vote for this measure. Thank you."

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

"Thank you Madame Speaker. This bill is to implement the decentralization of educational governance to the school community level. It is our dream come true, the empowerment of our community, and our families, and the creation and decentralization of education opportunities for our youth. This

is more than a revolution. It is an evolution of our publicly supported schools.

"No longer will decisions be made in the framework of a loosely fitted accountability. No longer will there be a single system, which fits all needs. In this new model, there will 15 separate complex areas throughout the state. In this system, the parents, students and teachers, leadership in one complex area will be able to see what works and what doesn't in the other 14 other complex areas, and adjust the curricular and fiscal policies accordingly. Madame Speaker, I strongly encourage this Body to pass this measure out so that this bipartisan bill may continue its own growth and evolution. We will have a long legislative process ahead of us and these ideas must continue to be debated. 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. 2037, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION REFORM," passed Second Reading and was referred to the Committee on Finance with Representatives Hale and Marumoto voting no and, with Representatives Pendleton, Rath and Thielen being excused.

Representative Saiki, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 366-02) recommending that H.B. No. 2525, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2525, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

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

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

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2525, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC WORKS PROJECTS," passed Second Reading and was referred to the Committee on Finance with Representatives Djou, Leong, Marumoto, Meyer and Moses voting no and with Representatives Pendleton, Rath and Thielen being excused.

Representatives Arakaki and Kahikina, for the Committee on Health and the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 367-02) recommending that H.B. No. 1749, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1749, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ADULT RESIDENTIAL CARE

HOMES," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs with Representatives Pendleton, Rath and Thielen being excused.

Representative Saiki, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 368-02) recommending that H.B. No. 2805, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2805, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Saiki, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 369-02) recommending that H.B. No. 2228, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2228, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PENSION AND RETIREMENT SYSTEMS," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Chang, for the Committee on Tourism and Culture presented a report (Stand. Com. Rep. No. 370-02) recommending that H.B. No. 1942, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1942, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

Representative Cabrerros' written remarks are as follow:

"Given the significant contributions of the Filipinos to the social, cultural, and economic life of Hawaii, I would like to add my support behind HB 1942 which establishes a commission to celebrate the 100th anniversary of the arrival of the Filipinos to Hawaii.

"There is a need to remind our younger generation about the heritage and history of the first Filipinos to Hawaii. Our society suffers when we forget the service and sacrifices of those who have come before us -- those who have built the foundation of the society that we enjoy today. Celebrating the arrival of the first Filipinos to Hawaii will give all of us this opportunity to honor them and to pass on this heritage to our children."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1942, entitled: "A BILL FOR AN ACT ESTABLISHING A COMMISSION TO CELEBRATE THE ONE-HUNDREDTH ANNIVERSARY OF THE ARRIVAL OF FILIPINOS TO HAWAII," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Chang, for the Committee on Tourism and Culture presented a report (Stand. Com. Rep. No. 371-02)

recommending that H.B. No. 2421, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2421, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"Madame Speaker, two basic things are wrong with this bill. First it further enhances use of a building that is an utter embarrassment that it is a part of the State's inventory. That is the 'Hemmeter Palace' If we are making some money on this building, we should be disposing of it. It is a good time to sell it and bring the money into the State treasury. This is not a building we should own.

"Second, on the business of creating a State art museum in a community where there are decent art museums that need public support. I don't understand why the State is in the business of creating an art museum, particularly when the Art in Public Places legislation that set this up is almost a model legislation for the whole country. Of course the idea of it is to spread art throughout the community wherever buildings are constructed, to enhance those structures themselves. To turn this thing on its head by creating a museum to honor the pieces that have been assembled through the program, rather than displaying them in public buildings where they were originally intended to be, boggles the mind.

"If we move ahead with this legislation, it would of course, become increasingly difficult to dispose of the Hemmeter Building. That may be the purpose of the bill, the underlying purpose, to try to nail down this 'palace' as part of our State inventory instead disposing of it as we should. I stand in opposition. Thank you Madame Speaker."

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

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

Representative Stonebraker rose and asked that the Clerk record a no vote for him and that the remarks of Representative Fox be entered in the Journal as his own, and the Chair "so ordered." (By reference only.)

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2421, entitled: "A BILL FOR AN ACT RELATING TO THE STATE ART MUSEUM," passed Second Reading and was referred to the Committee on Finance with Representatives Djou, Fox, Gomes, Ontai, Stonebraker voting no, and with Representatives Pendleton, Rath and Thielen being excused.

Representative Chang, for the Committee on Tourism and Culture presented a report (Stand. Com. Rep. No. 372-02) recommending that H.B. No. 2129, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2129, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR A NATIONAL KOREAN WAR MUSEUM," passed Second

Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representatives Kanoho and Morita, for the Committee on Water and Land Use and the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 373-02) recommending that H.B. No. 2544, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2544, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LEASING OF PUBLIC LANDS TO RENEWABLE ENERGY PRODUCERS," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representatives Kanoho and Chang, for the Committee on Water and Land Use and the Committee on Tourism and Culture presented a report (Stand. Com. Rep. No. 374-02) recommending that H.B. No. 2609, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2609, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"Madame Speaker, just briefly, even though this was reduced to \$2 million, in testimony, they were asked how much they spend to clean parks now. It is about \$900,000 that was testified to. It is not clear to me how that additional increase, tripling it, more than tripling it in their budget for cleaning our parks, will get our parks clean."

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

"Thank you Madame Speaker. I have reservations in addition to the comments made by the Representative from Mililani. I also note the reason we need this bill. The reason this bill is submitted is because we have too many special funds out there. Thank you Madame Speaker."

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

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

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

"Thank you Madame Chair. I stand in strong support of this bill. There is a direct correlation between tourist use, increased park use, and the impact on our State parks. This bill is not only for cleaning up parks, but it is to help with the repair and badly needed maintenance and upgrading the facilities to take care of the increase usage by tourists."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2609, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE PARKS," passed Second Reading and was referred to the Committee on Finance with Representatives Ontai and Stonebraker voting no, and with Representatives Pendleton, Rath and Thielen being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 375-02) recommending that H.B. No. 2407, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2407, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"Thank you Madame Speaker. This is an important piece of legislation to which a number of testifiers came. The public was very strongly for it. I certainly hope that the Committee on Finance does hear this measure, this very, very important measure supported by the community."

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

"Please register a no vote for me. In all our decision making, public health and safety was paramount and what this bill does is shorten the authority of the Department of Health."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2407, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DEFINING "SWIMMING POOL" TO EXEMPT POOLS WITH NATURAL OCEAN CIRCULATION SYSTEMS," passed Second Reading and was referred to the Committee on Finance with Representative Morita voting no, and with Representatives Pendleton, Rath and Thielen being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 376-02) recommending that H.B. No. 2542, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2542, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"I believe that this is the worst form of legislation. It is a bill to codify a legislative process that we already have set up under rules. The way we should set our fees is under rules with public hearings and testimonies. Not through legislation. When we put these fees in legislation, we then have to come back and amend the legislation in the future when we want to do something else. This is certainly moving in the wrong direction. Do we not go to NCSL meetings to learn to write good legislation, and to dispense with the making of legislation on those things that ought to be handled at the rule level.

"In addition, the reason I think that we are doing the legislation is that the Board of Land and Natural Resources is doing the right thing with these fees. They are trying to bring the whole community into the process and some people want to circumvent this process. This is a very wrong way to go. We should vote this down. Thank you Madame Speaker."

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

Representative Djou rose to speak in opposition to the measure and asked that the remarks of Representative Fox be

entered in the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Djou continued, stating:

"I'd also like to note that my district represents a portion of Kaneohe Bay, and a number of voters on that area have expressed concerns to me regarding this legislation. I don't think it is a good move."

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

"Madame Speaker, I rise in support with some small reservations. Just briefly, to respond to some of the comments, I find it ironic that here they are saying that we should actually let the administrative rule process take its place, whereas in the previous measure, we are actually you are usurping the administrative rule process.

"In talking to some of the actual people that will be assessed with the actual raising of the fees, they actually say they prefer to have it in the statute because that way, there is a cap. They don't have to worry about the administrative rules just suddenly coming in and burdening them with a huge amount of fees. For the people who are always concerned about fees going up and raising the fees on people, I think this is a good thing it is in the statutes. That way, it is always there. An agency can't just suddenly increase the fees.

"I commend the Chair of the Water and Land Use Committee. He really made a valiant effort in trying to come up with the appropriate measure so that we can address the real problems that are going on. It doesn't look like privatization is going to happen. We do need to address the repair and maintenance problems, and fees look like one of the ways we need to go. Thank you."

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

"This bill is simply raising more revenues for the general fund at a time when we cannot adequately account for how our money is spent. But somehow there is a sense that we need more and more. So generally I am opposed to increases, and just padding our bank account.

"In addition Madame Speaker, I wanted to comment on what I think is a mischaracterization in the theology, if you will, as to why this is important. The committee report specifically says, strongly believes, that required infrastructure improvements at the State's Small Boat Harbors should be accomplished primarily through moorage fees and not subsidized by ordinary taxpayers. Madame Speaker, actually the marine recreation industry, which many of the vessels that participate in that industry are coming out of our small boat harbors, are contributing to our tax coffers, in addition to the general excise tax, and in addition to moorage fees, are contributing 2% of their gross to our State coffers.

"This money has been spent on other things unrelated to harbors and the marine recreation industry. If just the small portion of those additional fees that are generated by our dynamic marine recreation industry were reinvested in the infrastructure, we would find that there is lots of money to have great, good small boat harbors. Thank you."

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

"I got a letter the other day from a guy whose boat broke down and he had to anchor in Maui. He did not know about

those mooring fees. He has boated all over the world and he has anchored in different areas across the mainland, and when he got his bill, he was shocked at Hawaii's mooring fees. They are so expensive. So he wrote to me. Sometimes people think that we can do something like fix their tickets or maybe give them a break on the mooring fees.

"Of course I immediately looked into it and I noticed the fees. Now I discover from the committee report that we want to raise this fee by 35% next year, then 5% for the next four years after that. So we are talking about a 55% increase, and so this seems excessive to me and I can't vote for it."

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

"Just some quick comments, and my reservations are based on some of the objections already noted. One other thing that I would point out in the committee report is, I don't see any reference to either any supporters or opposition that testified on this bill, and that concerns me. Usually most of the committee reports seem to include reference to supporters or opponents of it. So at any rate, with reservations."

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

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

"In looking at the committee report, and I see there was an error because I voted no in Committee but it has me as excused. Primarily I voted no because this was a bill that we had heard, and today in decision making we were presented with a draft that was quite different than the original H.B. 2542.

"I just felt that this was not appropriate because the people that would have come to testify on this draft were not able to because it had been changed at the last minute. I realize that we have these internal deadlines, but it isn't really the way we should do business.

"There were some recreational boaters, as well as commercial. There was a man with commercial boating interests. So we were able to ask questions and the Chairman was very accommodating about allowing that. There is no question that that mooring fees have to be increased, but I would prefer to see the land department handle it through rules, and have the public hearings where it would be 'fleshed out.' Thank you."

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

Representative Moses rose and stated:

"Thank you Madame Speaker, just a brief comment. I notice that now, with the addition of Representative Meyer, there are 2 noes, and 6 with reservations, and only 1 aye. So it makes me wonder Madame Speaker."

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

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

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

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

"Thank you Madame Speaker. I am in strong support. Just a few quick points to address. Yes, we would prefer that these fees be deliberated in the rule making process. In reality, the discussion has been ongoing for several years, discussing fee increases. But unfortunately, that has not taken place. It was mentioned that the fact is that fees need to be increased. Others have indicated that Hawaii's fees are exorbitant and that the proposed rates are astronomical, or words to that effect. Let's look at the figures.

"The fee schedule at Ala Wai is just \$4.20 per foot. Now that compares with private harbors on Oahu. At Keehi, it is almost \$9. At Ko'olina, it is \$9. For a premier location such as Ala Wai, to only be at \$4.20, that is really very low.

"We've described this as a work in progress. We would hope that perhaps the administrative rules would be finished, but it is doubtful. We need to act now because facilities at our small boat harbors need to be improved. It has been estimated, more than estimated, they are real figures as gathered by a professional engineering consultants, that our small boat harbors are in need of \$250 million worth of improvements. The projected need, which is primarily based on the unavailability of funds for the next fiscal year, is \$2.8 million, and then \$20 million for each of the succeeding years.

"Because there is a lack of funds in the Boating Special Fund to pay for the debt service, right now the Department is looking at general obligation bonds supported by general funds. I think that is the wrong way to go. The 35% increase would generate a little over a million dollars over and above this \$3 million that is presently collected. That \$1 million would then enable the State to float about \$10 million. The \$1 million would provide for the debt service for the \$10 million float. Within 5 years, the progressive increase would amount to nearly \$2 million, which would enable the State to float \$20 million, which would be in line with the projected improvements for the next couple of years.

"I highly urge our members to support this work in progress. This appears to be the only way we can make progress in improving our facilities. We've rejected, this Body, the Committee, has rejected privatization of our small boat harbors. This is the only option. Thank you Madame Speaker."

The was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2542, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BOATING," passed Second Reading and was referred to the Committee on Finance with Representatives Davis, Djou, Fox, Halford, Jaffe, McDermott, Meyer, Moses, Ontai and Stonebraker voting no, and with Representatives Pendleton, Rath and Thielen being excused.

Representative Saiki, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 377-02) recommending that H.B. No. 2500, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2500, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATUTORY REFERENCES AFFECTED BY ACT 253, SESSION LAWS OF HAWAII 2000," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representatives Kanoho and Abinsay, for the Committee on Water and Land Use and the Committee on Agriculture presented a report (Stand. Com. Rep. No. 378-02)

recommending that H.B. No. 2662, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2662, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"I am in support, in very strong support, of this landmark legislation. 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. 2662, HD 1 entitled: "A BILL FOR AN ACT RELATING TO LAND USE," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 379-02) recommending that H.B. No. 1810, HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1810, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Djou rose in opposition to the measure and asked that the Clerk record a no vote for all Minority members present, and the Chair "so ordered."

Representative Djou continued, stating:

"Madame Speaker, the line item veto that we afford the Governor is an extraordinarily important fiscal management tool. It is a tool that is afforded to an overwhelming majority of the Governors here in our Nation. It is a tool that I also happen to believe the President of the United States should have.

"The reason we have a line item veto, the reason it was enacted in the first place, was to prevent 'pork' and unwise spending by the legislature for their own pet projects, and give the Governor the ability to reduce and hold down government spending. We should not be removing the line item veto from the fiscal toolbox of the Governor. For these reasons, I stand in opposition."

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

"I am endeavoring to have a personal interest in this bill."

The Chair ruled, "no conflict."

Representative Case then rose in opposition to the measure and asked that the remarks of Representative Djou be entered in the Journal as his own, and the Chair "so ordered." (By reference only.)

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

"A couple of really short comments. First of all, I think we all know that under the present situation that we have right now, the Legislature is the one that controls the 'purse strings' and does make its policy announcements through the budget. Often times, it is second-guessed by the Executive Branch

through the line item veto process, thereby avoiding the legislative determination of where the money should be spent.

"The second point I need to make, Madame Speaker, is that the Governor already has the power of allotment and restriction to make the adjustments in the budget depending upon the fiscal forecast at the time the budget is passed over to them. I think that the existing law that allows him a line item veto can be abused and can lead to an encroachment of the Legislative Branch's power, the separation of power, and diminish the integrity and legitimacy of the Legislature as a separate critical branch of government."

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

"I believe that this Body still has the power to override a veto. So in the instance that we think that he did make a serious error, we could override it and we would be right back where we started."

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

"Madame Speaker, this particular issue, in terms of e-mails, faxes, and phone calls, is second only to the traffic cam issue. I say that in jest, obviously. There is no public outcry for this. There is no public interest in this. I do find it ironic that the proponents of this measure, I think, believe that the Governor is vested now with too much power. He and the proponents are strong advocates for what was once referred to as the 'King Ben' bill. Thank you Madame Speaker."

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

"Thank you Madame Speaker. I rise in strong support of this measure. As previously reference, I just wanted to clarify that it is very clear that the President of the United States does not have the line item veto power. There is a specific reason actually. There was a challenge brought by the City of New York. Actually it went all the way up to the Supreme Court and the Supreme Court struck it down. Although they struck it down on a different basis than separation of powers, it is interesting to note that when it went to the District Court, the District Court struck it down on both reasons: on the Presentment Clause; and on the fact that it infringes on the separation of powers that can be found in the City of New York v Clinton (985 F. Supp. 168).

"I just cite that case because I think they go through the long litany of how this country was created. How the separation of powers is actually set forth and what it attempted to do. They found that the line item of veto was actually an infringement of the separation of powers, and although I could read through the case, I really don't want to, so I would just cite to that case for now. Thank you."

Representative Moses rose to respond, stating:

"Yes Madame Speaker. I am just wondering why all of these years, I really don't know that answer, why for all these years this was a good thing to have, this veto power by the Governor. Now all of a sudden it is an issue. I have not heard it raised by anybody so I don't know why it has become an issue just now?"

Representative Whalen rose to a point of information, stating:

"Earlier there was a statement made that all Republicans voted no on page 9, Standing Committee Report No. 379. My vote is yes on that bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1810, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," passed Second Reading and was referred to the Committee on Finance with Representatives Auwae, Bukoski, Case, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Stonebraker voting no, and with Representatives Pendleton, Rath and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 380-02) recommending that H.B. No. 2562, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2562, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 381-02) recommending that H.B. No. 2042, HD 1, be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2042 HD 1, be referred to the Committee on Finance, seconded by Representative Lee.

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

"Yes, I am in favor of this with some reservations. It was a couple of years ago when you could get your birth certificate for \$2. The Legislature increased that fee which we seem to be getting into a habit of. Perhaps we should be taxed for the times that we increased fees. I am going to write a bill next year that every legislator that writes a bill to increase fees will have to be taxed a hundred dollars for that bill. It won't get any support but I would write it in jest.

"Here we increased the birth certificates from \$2 to \$5, and now to \$10, just within a span of a few years. Now we are asking for an exemption for a certain class of people, whatever class that is. I am really indifferent to that. It is just the fact that we have raised the fees and now we are coming to a problem, because it is a problem. And so my whole issue is with the fee increase and the whole principal behind it. You raise a fee then you have a problem, then you have to go back and fix it. We should have never raised the fee. You should have all voted no when the fee was proposed to be raised from \$2 to \$5."

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

"I think that we need to realize that the work to process each document is in excess of \$25. One might say that it is the State's cost. In reality, the processing of any check by any bank is at that level. We are looking at government to be self-supporting. It is still being subsidized, even with the increase, at a very disproportionate amount. So this increase, in my opinion is very justified. 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. 2042, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ACCESS TO VITAL STATISTICS," was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 382-02) recommending that H.B. No. 2166 be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2166 be referred to the Committee on Finance, seconded by Representative Lee.

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

"I am on the Board of Directors of a non-profit school and we are trying to build on the North Shore."

The Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2166, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 383-02) recommending that H.B. No. 2848, as amended in HD 1, be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2848, pass be referred to the Committee on Finance, seconded by Representative Lee.

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

"I am on the Board of Directors of a non-profit school and we are trying to build on the North Shore."

The Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2848, HD 1, entitled: "A BILL FOR AN ACT PROPOSING AMENDMENTS TO ARTICLE VII, SECTION 12, AND ARTICLE X, SECTION 1, OF THE CONSTITUTION OF THE STATE OF HAWAII TO AUTHORIZE THE STATE TO ISSUE SPECIAL PURPOSE REVENUE BONDS AND USE THE PROCEEDS FROM THE BONDS TO ASSIST NOT-FOR-PROFIT PRIVATE ELEMENTARY SCHOOLS, SECONDARY SCHOOLS, COLLEGES, AND UNIVERSITIES," was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 384-02) recommending that H.B. No. 2606, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2606, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Saiki, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 385-02) recommending that H.B. No. 2276, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2276, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2276, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 386-02) recommending that H.B. No. 657, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 657, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 657, HD 1, entitled: "A BILL FOR AN ACT RELATED TO GLASS RECYCLING," passed Second Reading and was referred to the Committee on Finance with Representative McDermott voting no, and with Representatives Pendleton, Rath and Thielen being excused.

Representatives Morita and Souki, for the Committee on Energy and Environmental Protection and the Committee on Transportation presented a report (Stand. Com. Rep. No. 387-02) recommending that H.B. No. 2190, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2190, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"Talk about fees, this is creating a new fund and requires the Department of Transportation to charge airplanes \$85, and marine carriers \$200, respectively, from any port of departure where prohibited or restrictive pest species may originate or transit. We don't even know where those places might be. Nobody knows that yet. Nobody has done this study or put anything together. But we are going to charge all these carriers in case they might be bringing in an invasive species, which could infect our population here on our Islands.

"There is still no procedure put forth to eradicate those species so this is not to eradicate them, this is just to charge them at that port or landed somewhere where they may bring in a species, whether or not they actually bring it in, just because they have been there. So I think that this is not the right way to do it.

"It does establish another fund. It does charge a lot of carriers, and those charges will be relayed to us. If you charge an airplane or a ship more money to come to Hawaii, they are going to pass it on to us. We are going to be paying for it so this is another fee increase, another tax on the people of Hawaii."

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

"Granted, there are some areas in this bill that need to be further discussed and corrected, but this is a work in progress. And if you have read the Legislative Reference Bureau's report on alien invasive species, you can see that the cost on our economy is in the hundreds of millions of dollars.

"The intent of this bill is to stop these invasive species at the ports of entry rather than paying on the back end for eradication. I don't have the specific figures at hand, but in a demonstration project at Kahului Airport, funded in part by the federal government, within a six-month period, I believe, they found over 300 different species that were damaging to our environment and our economy entering through the airport

"It is an important matter that we need to carry on further debate and discussion. I recognized that there are numerous details and problems in this bill, but the discussion is warranted. 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. 2190, HD 1 entitled: "A BILL FOR AN ACT RELATING TO INVASIVE SPECIES FUNDING," passed Second Reading and was referred to the Committee on Finance with Representative Moses voting no, and with Representatives Pendleton, Rath and Thielen being excused.

Representatives Hamakawa and Hiraki, for the Committee on Judiciary and Hawaiian Affairs and the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 388-02) recommending that H.B. No. 2479, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2479, entitled: "A BILL FOR AN ACT RELATING TO DISASTER RELIEF," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 389-02) recommending that H.B. No. 2123, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2123, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAII VICTIMS' ECONOMIC SECURITY AND SAFETY ACT," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 390-02) recommending that H.B. No. 1983, HD 1, as amended in HD 2, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1983, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ADMINISTRATIVE PROCEDURE," was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 391-02) recommending that H.B. No. 1754, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1754, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 392-02) recommending that H.B. No. 2245, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2245, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"I am a real estate broker and I enter into negotiations regarding said leases."

The Chair ruled, "no conflict."

Representative Ahu Isa rose to speak in opposition to the measure, stating:

"I am going to vote no on this."

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

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

"There are going to be constitutional issues with this bill. While part of the intent is to help some of the small businesses, some of those small businesses are, in fact, also landowners who lease, and would be punished by this particular measure. So for those reasons, I am in opposition. Thank you."

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

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

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

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

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

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

"I just have some reservations as to whether this will pass constitutional muster. Actually, my analysis is, I think, that it probably will. If you look under the Hawaii Supreme Court case of applications of Herrick and Irish, 82 Hawaii 329, what the Court stated is, if we are going to pass the constitutional muster on a bill like this, there is a three part test: whether it substantially impairs a contractual relationship; whether the state law was designed to promote a significant and legitimate public purpose; and whether the state law was a reasonable and narrowly drawn means of promoting a significant and legitimate public purpose.

"The first part seems to be that there is, that it actually is, impairing a contract. The second part, as to whether it promotes a significant and legitimate public purpose, I think, if you looked at Section 1 of the paragraph, it goes through a pretty long litany as to why this would be a legitimate and substantial governmental interest.

"Just for the Members' edification, a similar bill like this, S.B. 873, was discussed in the 2000 Legislature. There was actually an informal Attorney General Opinion, which went through the case I previously talked about. There, they say that the main problem, and the main flaw was that the bill wasn't drafted in a way, to me that second part, to demonstrate that it promoted a significant and legitimate public purpose, because the Section 1 paragraph was only one sentence.

"Here, what they've done is they really tried to 'beef it up' as to why we really, really need this measure. Why the economic times have driven us to such a means, and I think for that reason, I believe it probably will pass constitutional muster. So for those reasons, I stand in support with some minor reservations."

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

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

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

Representative Hiraki's written remarks are as follows:

"Mr. Speaker, I stand to speak in favor of HB 2245. The purpose of this bill is to provide relief to leaseholders whose inflated lease rents were set during the Japanese real estate 'bubble' of the late 1980's, and whose leases contain a rent floor that prohibits any lowering of their rent during renegotiations. This bill would allow a one-time adjustment of their lease rent to reflect the fair market value of the property.

"Look closely at the kind of contract this bill targets. It is a long-term lease negotiated when the Japanese real estate 'bubble' of the late 1980's was inflating. Once the 'bubble' burst, the leases targeted by this bill didn't adjust downward,

because they contained a lease rent floor, a clause prohibiting the lowering of rent in renegotiations of the lease.

"Why would anyone agree to this type of clause? These clauses likely exist only because of the abnormal land market of the '80's. Even before the 'bubble', Hawaii's market was an oligopoly in which land ownership is concentrated in the hands of a few. To add to the problem, viable commercial properties were limited to a single, crowded area. As the 'bubble' inflated, it provided further distortion of this market, as speculation drove land values to unparalleled heights. All these factors combined to deprive commercial leaseholders of bargaining power. In that market, it is likely that leaseholders had little choice than to accept the rent floor clause.

"And this clause negatively affects both leaseholders and Hawaii's economy. It maintains an inflated rent that siphons money out of businesses. It prevents business from investing in the long-term, and results in the decay and dilapidation of Hawaii's commercial structures. It exaggerates the impact of economic downturns, forces business to reduce their workforce, and pushes business closer to foreclosure and bankruptcy.

"These problems call for a remedy. For these reasons I support HB 2245."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2245, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LEASEHOLD," passed Second Reading and was referred to the Committee on Finance with Representatives Ahu Isa, Djou, Gomes, Jaffe, Kahikina, Morita and Ontai voting no, and with Representatives Pendleton, Rath and Thielen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 393-02) recommending that H.B. No. 2567, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2567, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE TAXATION OF MOBILE TELECOMMUNICATIONS SERVICES," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 394-02) recommending that H.B. No. 1778, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1778, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FINANCIAL SERVICES LOAN COMPANIES," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representatives Hiraki and Arakaki, for the Committee on Consumer Protection and Commerce and the Committee on Health presented a report (Stand. Com. Rep. No. 395-02) recommending that H.B. No. 2216, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2216, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MENTAL HEALTH, ALCOHOL, AND DRUG ABUSE," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representatives Hiraki and Hamakawa, for the Committee on Consumer Protection and Commerce and the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 396-02) recommending that H.B. No. 1943, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1943, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"Madame Speaker, in my practice as an attorney, I represent wireless telecommunications companies. In the past, I have represented wireless telecommunications before the PUC. Passage of this legislation could adversely affect my law practice."

The Chair ruled, "no conflict."

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

"Thank you Madame Speaker, in that case, I stand in strong support of this legislation even if it might adversely affect me. I think it is a good 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. 1943, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 397-02) recommending that H.B. No. 2006, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2006, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL WASTES RECYCLING," was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 398-02) recommending that H.B. No. 2659, HD 1, as amended in HD 2, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2659, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CAVE PROTECTION," was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No.

399-02) recommending that H.B. No. 2831, HD 1, as amended in HD 2, be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2831, HD 2, be referred to the Committee on Finance, seconded by Representative Lee.

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

"My concerns are that this bill, while well-intended, is very far reaching, very broad, but far, far too sweeping in what it tries to accomplish. For those reasons, thank you, I stand against."

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

"Thank you Madame Speaker. I am with reservations for the same reasons stated by the Representative from Waimanalo."

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2831, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CORAL REEF PROTECTION," was referred to the Committee on Finance with Representatives Davis, Gomes and Meyer voting no, and with Representatives Pendleton, Rath and Thielen being excused.

Representatives Saiki and Ahu Isa, for the Committee on Labor and Public Employment and the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 400-02) recommending that H.B. No. 1966, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1966, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"I am sorry Madame Speaker, I know that this is a worker retention bill. The reason why I recommended passage of this bill is because of what is happening today, especially with Hawaiian and Aloha Airlines, and how every one of their employees got pink slips. The people that work for these companies live, were born, and were raised here. To me, we have a responsibility to take care of them and not have them replaced with workers from the mainland.

"It is not that I am being prejudiced or anything. But when you look at the airline industry, that is the only way we can travel. Our Neighbor Islanders have no other means of coming here, or we, going there. No ferry system, no subway system, no suspension bridges, and I wanted to keep a vehicle moving and that was the intent of this bill. Thank you."

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

"First of all, Hawaiian Airlines is going to have lay off people because they have gone to a different type of airplane which requires fewer pilots, and fewer crew in total. So they

are going to be laying off people. We don't have a retention bill for those kinds of lay offs.

"Aloha Airlines may go out of business and there would be some people laid off there. There is no talk of anybody taking them over, if there is no merger, and they go out of business. My major concern is that this bill started off being 100% retention, basically. Now it is 50%. My concern is when a company reorganizes or is taken over, or anything else, the company may be reduced in size so it is impossible to retain even 50% of the workers. It depends on how it is cut up. It may become so small that maybe it is only going have 30% of the workers that it used to have. How can it possibly retain 50%? So I have problems there.

"We are not looking at all the options that might be available to a business. We are saying that you have got to stay that big, even if you are not intending to. Maybe it is a company being split into three parts. Which part has to have 50%? So I have some reservations, and I think that it could be worked out."

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

"We have a whole framework of law that is set up to deal with people who lose their jobs because of employers going out of business. This whole process often facilitates the retention of jobs, if we remain flexible in the way we handle employee practices. That can often result in a firm continuing under a new management that otherwise would completely go under. It is very important that the private sector, the operation of the market economy, be allowed to function in a way that maintains jobs. That is the way our system operates.

"When the government gets in the business of trying to interfere with the private sector in order to protect employees that would otherwise lose their jobs, the unintended consequence of that could be that the company completely goes under and everybody loses their jobs. So I think that it is best that we stay out of this business and allow the market economy to work, and end up with thriving operations in Hawaii under new management. That is the best hope we can have. Thank you."

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

"Among other reasons, the bill doesn't provide any funds for the company. It doesn't make an appropriation to retain the next group, for the successor company to retain the 50%.

"I am also curious as how 50% came up. It is a worthy, noble effort to take care of those who may lose their job, but as the speaker from Waikiki pointed out, we've already got laws and resources in place to take care of them. Thank you Madame Speaker."

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

"I voted in support of this measure in Committee just this morning, without reservations. My reservations are more preemptive than anything else. At the 50% level that is called for in this bill, I believe that this bill fairly addresses cases of outright abuse when a company is taken over or transferred from one employer to the other. I believe that it can prevent instances that have been threatened or even performed here in Hawaii, which none of us would agree with.

"But at some point, these bills -- and we've seen these bills many times -- at some point these bills, while having merit and having a good purpose, become counterproductive to the very

purpose in which they seek to accomplish, which is to provide good jobs on a stable basis. If you get in the way too much, you will lose that ability. You will not have investment, and you will not have economic vitality. That is a fact of life that you cannot get around.

"So I would very much urge that the temptation to somehow increase the threshold from 50% up, to somehow reinsert some of the provisions that we saw earlier in this bill, be resisted. This is a bill that is okay as it is. But if it changes at all, then it is not okay anymore. Thank you."

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

"I just wanted to repeat something that the Representative from Manoa said about discouraging investment in Hawaii. I believe that bills like this send a terrible message to anybody that wants to buy a viable business here. I just think that we are going in the wrong direction."

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

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

"A strong no vote for me please."

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

"There are a lot reasons why Hawaii has an anti-business reputation. Passage of this bill will add one more piece of legislation that makes Hawaii hostile to investors."

Representative Djou also asked, in the interest of time, that the Clerk record a no vote for all Minority Members present, with the exception of Representatives Moses and Halford who vote aye with reservations, and Representative Davis who votes aye.

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

"Thank you very much Madame Speaker. In the interest of time, I just have some brief remarks. People should know the history of how this bill came about. I don't know if anybody remembers that the Airport Holiday Inn, on New Years Eve 1986, when 126 workers were terminated with just 2 hours notice. Basically, Happy New Year, and 126 workers out on the street.

"It was as a result of that action that the Legislature passed the Hawaii Dislocated Worker Law, which basically said that they needed 45 days notice in the case where the company was going to close down. That was to give some compassion to the very workforce that created the wealth of that company.

"In the years since 1986, there have been many examples like the Hilton Waikaloa Village, the Grand Wailea Hotel, the Hawaiian Waikiki Beach Hotel, the Maui Surf, the Kapalua Hotel, the Ritz Carlton in Kapalua, and the Hawaii Naniiloa Hotel, and on and on. These are where owners changed, and yet in every situation people reacted differently. In some of those instances, they retained 100% of their workforce in order to have a smooth transition to the next owner. In others, every one of them was laid off, and was told to reapply. This led to a lot of stress a lot of anxiety among the workers, when in fact, the majority of them were still hired back.

"I would be the first to admit that when somebody comes in and buys the business, such as a hotel, and this bill applies, and I give the credit to the Economic Development and Labor Committee Chairs for amending the bill, it is for 50% of the workers. This applies to businesses with 100 workers or more, which is only 2% of the businesses in the state of Hawaii. We are not talking about the small 'mom and pop.' We are talking about large companies.

"The work that they did on this basically says that if a company is sold, the owner has to retain 50% of the workforce. I think that happens in the vast majority of cases frankly, and again it is to avoid the kind of situation that happened on New Years Eve in 1986 to those 126 workers at the Airport Holiday Inn. Thank you."

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

"Thank you Madame Speaker. I voted no, and I am going to tell you a little story about the Makaha Sheraton. People wanted to buy that hotel but because they were asked to hire back the employees, they decided not to buy the hotel. So the hotel sat for many years and I am glad that now there is a new owner, and we are encouraging them to rehire some of the others, but some people have found better jobs. So for this reason, I am in opposition. Thank you."

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

"Madame Speaker, I am voting no on this. The speaker from Pearl City mentioned about the sudden notice that the workers of an airport hotel were given. I think that does not have anything to do with the bill that is presently before us. This one covers divestitures, which require the retention of 50% of the incumbent non-supervisory employees. It is not clear that these employees must be retained, and if it is in perpetuity, I think it would be unreasonable. I do hope the next committee will take a look at that and perhaps put a date certain in there. 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. 1966, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT," passed Second Reading and was referred to the Committee on Finance with Representatives Auwae, Bukoski, Djou, Fox, Gomes, Jaffe, Leong, Marumoto, McDermott, Meyer, Ontai, Stonebraker and Whalen voting no, and with Representatives Pendleton, Rath and Thielen being excused.

Representatives Saiki and Ahu Isa, for the Committee on Labor and Public Employment and the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 401-02) recommending that H.B. No. 2750, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2750, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH INSURANCE PREMIUM CONTRIBUTIONS," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce with Representatives Pendleton, Rath and Thielen being excused.

Representatives Morita and Hamakawa, for the Committee on Energy and Environmental Protection and the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com.

Rep. No. 402-02) recommending that H.B. No. 2212, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2212, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"I vote with reservations on this, and I would just like a small explanation on why. I am very much in favor of the Hawaii invasive species control. I think it is very necessary. However, this bill has a blank amount, and that passes on to Finance and we couldn't find out how much it would cost. For that reason I am voting with reservations because I feel that might kill the 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. 2212, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ALIEN INVASIVE SPECIES," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representatives Hamakawa and Hiraki, for the Committee on Judiciary and Hawaiian Affairs and the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 403-02) recommending that H.B. No. 2429, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2429, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOBACCO," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 404-02) recommending that H.B. No. 1717, as amended in HD 1, be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1717, HD 1, be referred to the Committee on Finance, seconded by Representative Lee.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1717, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ETHICS," was referred to the Committee on Finance with Representatives Gomes voting no, and with Representatives Pendleton, Rath and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 405-02) recommending that H.B. No. 2513, HD 1, as amended in HD 2, be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2513, HD 2, be referred to the Committee on Finance, seconded by Representative Lee.

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

Representative Bukoski's written remarks are as follows:

"I am in complete support of the general intent of this measure to reduce carbon dioxide emissions. I believe the Chair of Environment and Energy Committee has made some effort to limit the scope of methods used to reduce carbon dioxide into the atmosphere, to proven and environmentally safe techniques. However, I am concerned that some of the language that exists in the bill's current form allows carbon dioxide producers to utilize questionable means of reducing the amount of carbon dioxide released into the atmosphere such as ocean sequestration.

"Ocean sequestration is a highly debatable, extremely questionable and scientifically unproven method of injecting carbon dioxide far beneath the ocean's floor. Experts in the field have testified that there may be severe adverse and long-term impacts to our ocean environment should this form of sequestration occur.

"On page 4 lines 1-3 of the bill it defines sequestration as, "the long term storage of carbon in the biosphere or underground so that the buildup of carbon dioxide concentration in the atmosphere will be reduced or slowed." I am concerned that the word 'underground' may be interpreted loosely to include under the ocean floor or ocean sequestration.

"On page 5, lines 13-15 it allows for "...offsetting carbon dioxide emissions by sequestration, or applying other means; provided that the decreases in carbon dioxide are verifiable and approved by the director." This language is too vague and allows for the application of 'other means' by which to reduce carbon dioxide. I feel this language is too general and needs to be more specific.

"On page 6, lines 21-22, the bill attempts to limit the scope of expenditures out of the established Carbon Dioxide Emissions Reduction Special Fund, to land-based sequestration. I would like to point out that this only applies to instances related to expenditures out of the Fund, but does not apply to allowable methods of sequestration in general terms. In effect, this may allow a utility that is trying to reduce their emissions, to employ "other means" such as ocean sequestration, to achieve their goals.

"In testimony regarding this measure, I found it rather strange that the Kauai Electric representative actually mentioned ocean sequestration as an excellent method of reducing carbon dioxide. It is also my understanding that a company that has been experimenting on ocean sequestration and has unsuccessfully lobbied this Legislature last session to allow for such methods of sequestration; has been planning to conduct such experimenting off of Nawiliwili Harbor on the island of Kauai. It is my concern that the bill as written, will eventually lead to the use of ocean sequestration by Kauai Electric, as their means of complying with the general intent of this measure.

"Other jurisdictions have disallowed such experiments of sequestration in their waters for the same concerns I share about this unproven technology. I find it disconcertingly ironic that we are passing measures to save our coral reefs and protect our oceans and waters from further contamination, pollution and degradation, but here we are, allowing for potential long-term and long-lasting adverse impacts in our ocean environment through the use of ocean sequestration.

"For these reasons I cannot support this measure in its current form. I sincerely hope that the Chairs of both the Energy and Environment Committee and its next scheduled committee can come up with some definitive language that will absolutely

disallow ocean sequestration anywhere in waters that are governed by the State of Hawaii. Should such language be adopted, I would whole-heartedly support this bill. Until such time, I must vote no on this measure. Mahalo."

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

Representative McDermott's written remarks are as follows:

"Mr. Speaker and Members of the House, I rise in opposition to H.B. 2513. This bill does not stop emissions, but only assesses fees based upon an electric utilities total emission of carbon dioxide.

"Not only does the bill prevent emissions violations, but also it also arbitrarily penalizes Hawaii businesses such as the hard hit sugar mills because of the unrealistic scare of global warming from a minute source in the middle of the Pacific Ocean.

"These unrealistic demands on Hawaii businesses could end up closing businesses and drastically increasing unemployment by requiring upgrading or retiring plant equipment to what would amount to an undetectable minimal impact on overall global warming.

"What is the definition of identifiable decreases in carbon dioxide emissions that Hawaii businesses will have to spend money to attain?

"This Bill creates a bureaucracy at a time when taxpayer dollars are at a premium and we have more important pressing issues facing our state such as educational demands."

Representative McDermott also submitted the following article:

"The Questionable Science Behind the Global Warming Scare

by Joseph Bast
Heartland Policy Study No. 89
October 30, 1998

Joseph L. Bast is president and CEO of The Heartland Institute, a nonprofit research organization based in Chicago, Illinois. He is the coauthor of Eco-Sanity: A Common-Sense Guide to Environmentalism (Lanham, MD: Madison Books, 1994 [second edition 1996]). He can be reached by e-mail at jbast@heartland.org.

Introduction

Scientists have discovered that concentrations of minor greenhouse gases^{<1>} in the atmosphere, particularly carbon dioxide (CO₂), are rising. Theoretically, these gases could trap more heat in the atmosphere, leading to a gradual warming of the Earth's atmosphere. And, again theoretically, the consequences of rapid global warming could be harmful to the environment and to human health. Since the stakes are high, careful research and a deliberate response are called for.

In 1997, representatives of the United States and other nations met in Kyoto, Japan, to negotiate a treaty to address the possible threat of global climate change. That treaty, called the Kyoto Protocol, would require the U.S. to reduce its greenhouse gas emissions -- primarily carbon dioxide (CO₂), methane (CH₄), and nitrous oxide (N₂O) -- to 7 percent below 1990 levels by the year 2012.^{<2>}

The Kyoto Protocol does not become effective unless approved by the United States Senate. However, Vice President

Al Gore and other spokespersons for the Clinton Administration have said they will attempt to implement the treaty even if the Senate does not approve it.^{<3>}

The debate over global warming is important because implementation of the Kyoto Protocol would have significant negative effects on American workers and consumers. In order to reduce greenhouse gas emissions, the United States government would need to adopt policies that would raise energy costs by the equivalent of \$0.60 per gallon of gasoline or more.^{<4>} Higher energy costs, in turn, would result in substantially higher prices paid by consumers for electricity and home heating oil, some 2.4 million lost jobs, and lost income averaging \$2,700 per year for the typical American family.^{<5>}

The cost of the Kyoto Protocol might be worth bearing if we knew three things for sure: (1) that man-made greenhouse gases are truly causing global warming; (2) that global warming is or will be bad for the natural environment and for human civilization; and (3) that the emission reduction schedule that is contained in the Kyoto Protocol is the best or most effective way to stop the threatened global warming from occurring. It is the contention of this author that all three necessary conditions for accepting the treaty are either false or we currently lack sufficient knowledge to know whether they are true.

The discussion that follows has the goal of imparting a basic understanding of the issues related to global warming. Believe it or not, it is possible for a person who is not trained in physics or climatology to reach an informed opinion about the science behind the global warming debate. On issues where the science is too complicated or the jargon too dense, there are reliable sources to turn to for an objective and informed opinion.

The seven principal conclusions of this paper are listed in the box on this page. Together, they make a convincing case for rejection of the Kyoto Protocol and pursuit, instead, of an alternative strategy called "no regrets." This strategy involves funding research on the effects of higher CO₂ concentrations on plants and agriculture, lowering capital gains taxes to encourage the speedy replacement of old tools and equipment and with a new generation of more energy-efficient and less-polluting equipment, and carefully targeted investments where they are needed to accommodate climate change.

The final section of this study gives readers advice on how they can participate in the national debate over global warming.

1. Most scientists do not believe human activities threaten to disrupt the Earth's climate.

Over 17,000 scientists have signed a petition saying, in part, "there is no convincing scientific evidence that human release of carbon dioxide, methane, or other greenhouse gases is causing or will, in the foreseeable future, cause catastrophic heating of the Earth's atmosphere and disruption of the Earth's climate."^{<6>}

The petition is being circulated by the Oregon Institute of Science and Medicine, an independent research organization that receives no funding from industry.

Among the signers of the petition are over 2,100 physicists, geophysicists, climatologists, meteorologists, and environmental scientists who are especially well-qualified to evaluate the effects of carbon dioxide on the Earth's atmosphere. Another 4,400 signers are scientists qualified to comment on carbon dioxide's effects on plant and animal life. Nearly all of the signers have some sort of advanced technical training.

The qualifications of the signers of the Oregon Institute Petition are dramatically better than the qualifications of the 2,600 "scientists" who have signed a competing petition, circulated by Ozone Action, calling for immediate action to counter global warming. An investigation by Citizens for a Sound Economy found that more than 90 percent of that petition's signers lacked credentials to speak with authority on the issue.<7> The entire list included just *one* climatologist.

Over one hundred climate scientists signed the 1996 Leipzig Declaration, which stated in part, "there does not exist today a general scientific consensus about the importance of greenhouse warming from rising levels of carbon dioxide. On the contrary, most scientists now accept the fact that actual observations from Earth satellites show no climate warming whatsoever."<8>

A survey of 36 state climatologists--scientists retained by state governments to monitor and research climate issues--conducted in September and October 1997 found that 58 percent disagreed with the statement, "global warming is for real," while only 36 percent agreed.<9> A remarkable 89 percent agreed that "current science is unable to isolate and measure variations in global temperatures caused only by man-made factors."

The same survey found that none of the climatologists strongly agreed, and only 11 percent "somewhat agreed," with the following statement: "Reducing anthropogenic or man-made carbon dioxide emissions among developed nations such as the United States to 1990 levels will prevent global temperatures from rising." Eighty-six percent disagreed with the statement.

Global warming alarmists have sought to silence their critics by calling them a small group of industry-funded dissenters from the "scientific consensus."<10> The Oregon Institute Petition, the Leipzig Declaration, and the survey of practicing climatologists prove these claims are false. We should keep in mind, however, that scientific truths are not found by polling scientists, but through rigorous debate recorded in peer-reviewed journals. As the following points show, global warming skeptics can win that debate, too.

2. The most reliable temperature data show no global warming trend.

It is an article of faith among those who warn of catastrophic global warming that temperatures are already rising. They point to surface-based measurements produced by the National Oceanic and Atmospheric Administration to declare 1997 the warmest year on record.<11> But U.S. weather satellites and radiosonde (weather) balloons rank 1997 as the seventh *coolest* year since satellite measurements began in 1978.<12> The actual balloon and satellite record, provided by NASA, is shown on the following page. Which record is more reliable?

Modern surface-based temperature records began in 1880. Although useful for compiling regional data, such measurements are too few in number and too unevenly spaced to generate global temperature maps that are useful. Only 30 percent of the world's surface is land, so land-based temperature measurements account for less than one-third of the Earth's climate. Arctic and oceanic temperatures are under-represented. Data collected outside of the United States and Europe are poorly distributed. Urban stations, which are influenced by city heat anomalies, are over-represented; deserts, mountains, and forests are under-represented. The result is a set of measurements that understate some global trends and overstate others.

The global temperature record produced from satellite data has none of the problems faced by surface-based thermometers. Orbiting satellites cover 99 percent of the Earth's surface, not less than a third, and measure a layer of the troposphere that is unaffected by urban heat islands. Moreover, satellite data agree almost exactly with those recorded by weather balloons, even though the latter use different technology.<13> While the satellite record extends back only to 1979, weather balloon data go back 38 years to 1960.

"A look at the trends in the satellite data--our only truly global record of lower atmosphere temperature--is remarkably revealing," said Virginia State Climatologist Dr. Patrick J. Michaels in testimony before Congress.<14> "There is a statistically significant global *cooling* trend over the entire 18.8 year period." After Michaels testified, El Niño (a recurring weather phenomenon not caused by global warming) raised global temperatures in 1997 and 1998, so the 19-year record now shows neither a warming nor a cooling trend.

Dr. Roy Spencer, a meteorologist and team leader of the NASA/Marshall Space Flight Center, says "the temperatures we measure from space are actually on a very slight downward trend since 1979 . . . the trend is about 0.05 degrees Celsius per decade cooling."<15>

Dr. Vincent Gray, a New Zealand scientist and member of the peer review board of the Intergovernmental Panel on Climate Change, writes: "There is no evidence of a global warming trend over the past 37 years if the radiosonde [weather balloon] measurements are considered, or over 18 years if the satellite measurements only are considered."<16>

Dr. Robert Balling, Director of the Office of Climatology at Arizona State University, summarizes the temperature data of the past two decades as follows: "The trend is statistically significant, and it's downward. . . . Two of the three methods we use to measure planetary temperature show cooling, and one shows nothing at all. . . ."<17>

It is sometimes argued that satellites measure temperatures too far above the surface to be said to contradict the record of surface-based weather stations. The Intergovernmental Panel on Climate Change strongly rejected this notion in its 1990 report: "It is not the change in thermal infrared flux at the surface that determines the strength of the greenhouse warming. The surface, planetary boundary layer and the free troposphere are tightly coupled via air motions on a wide range of scales, so that in a global-mean sense they must be considered as a single thermodynamic system. As a result, it is the change in the radiative flux at the tropopause, and not the surface, that expresses the radiative forcing of climate system."<18>

3. General circulation models are too crude to predict future climate changes.

Predictions that rising concentrations of carbon dioxide in the atmosphere will cause global climate change are based on general circulation models (GCMs), complex computer programs that attempt to simulate the Earth's atmosphere. GCMs were created to help scientists learn more about atmospheric physics, not to predict future climates.<19> When put to such an unintended use, they are unreliable. For example:

- GCMs are unable to replicate past climate trends. While global temperatures have risen between 0.3 and 0.6 degrees Celsius over the past one hundred years, computer models predict that global temperatures should have gone up between 0.7 and 1.4 degrees by 1990. The two ranges do not even

overlap.<20> The ability to explain historical data is a critical test for any theory or computer model. GCMs flunk that test.

- GCMs use "fudge factors" that are larger than the variables they are supposed to be measuring. In order to get their models to produce predictions that are close to their designers' expectations, modelers resort to "flux adjustments" that can be 25 times larger than the effect of doubling carbon dioxide concentrations.<21> Dr. Richard Lindzen, a meteorologist at MIT, notes that "one cannot even calculate the temperature of the Earth without models that accurately reproduce the motions of the atmosphere," yet "present models have large errors here--on the order of 50 percent."<22> Richard A. Kerr, a writer for *Science*, says "climate modelers have been 'cheating' for so long it's almost become respectable."<23>

- GCMs inaccurately model the effects of clouds. Most climate models assume that clouds absorb roughly 3 percent of the sun's radiation, but more recent estimates, published in *Science* in 1995,<24> indicate that the absorption rate may be closer to 19 percent. This means past predictions were based on data that "were off by more than 600 percent."<25>

- GCMs do not take into account fluctuations in solar energy. Scientists can only estimate the amount of solar energy that enters the Earth's atmosphere (an amount called the "solar constant") as well as the amount of sunlight reflected back into space by the Earth's surface and atmosphere (called the "reflectivity of the Earth"). Estimates for these values vary considerably over time, and some experts believe natural variations are closely related to changes in climate.<26>

- GCMs are only as good as the data fed into them. The GCMs used by the Intergovernmental Panel on Climate Change were programmed to assume an increase in greenhouse gas concentrations of 1 percent per year, even though the historical data show an annual increase of only 0.3 to 0.4 percent. Population growth and coal production figures were similarly exaggerated. After correcting for these and other errors, Dr. Vincent Gray concludes "we can expect the *maximum* temperature rise between 1900 and 2100 to be 1C."<27> (Emphasis in the original.) Other scientists report similar results when the GCMs are run with accurate data.<28>

General circulation models have become more complex over time, but this doesn't mean they are becoming more accurate. Richard Kerr quotes an anonymous senior climate modeler as saying "the more you learn, the more you understand that you don't understand very much."<29> Kerr reports that "most modelers now agree that the climate models will not be able to link greenhouse warming unambiguously to human actions for a decade or more."<30>

4. The IPCC did *not* prove that human activities are causing global warming.

The Intergovernmental Panel on Climate Change (IPCC) was created by the United Nations to act as a source of scientific advice on global warming. Its latest assessment, *Climate Change 1995*, predicts a global temperature increase of between 0.9 C and 3.5 C by the year 2100, with a "best estimate" of 2.0 C.<31>

Climate Change 1995 is the source of perhaps the most often quoted sentence in the global warming debate: "[T]he balance of evidence suggests a discernible human influence on the global climate."<32> Upon this slender reed is hung the claim of a "scientific consensus" on the need to "stop global warming." Yet, how meaningful is this sentence?

"Balance of evidence" is a phrase used by scientists when evidence of a cause-and-effect relationship is unavailable. It is an admission that genuine proof is not possible. The word "suggests" indicates that different people looking at the same data can disagree on their meaning. And "discernible" means detectable but by no means large or significant. It certainly does *not* mean "major," "troubling," or even "bad."

Climate Change 1995 is controversial for a second reason: Many revisions to the report were made *after* peer review was completed. Dr. Frederick Seitz, president emeritus of Rockefeller University and past president of the National Academy of Sciences, has publicly denounced the published document, writing "I have never witnessed a more disturbing corruption of the peer-review process than the events that led to this IPCC report."<33> Dr. Vincent Gray has written that the final version of the IPCC report he saw as a reviewer did not claim to have found "a discernible human influence on the global climate," but instead ended with the following words:

When will an anthropogenic effect on the climate be identified? The best answer is "we do not know."<34>

There is still more evidence that the scientists who wrote the IPCC report did not believe they had proven that man-made emissions were influencing the global climate. Dr. Benjamin Santer, the lead author of the science chapter of the IPCC report, coauthored an article on the same subject for a peer-reviewed scientific journal around the same time as the IPCC report was written. In that essay, Santer et al. say it is not possible to get the general circulation models to replicate the past climate record, and until this is resolved, "it will be hard to say, with confidence, that an anthropogenic climate signal has or has not been detected."<35>

Recent comments made by spokespersons for the IPCC also suggest concern that their findings are being misrepresented. Dr. Santer has said "It's unfortunate that many people read the media hype before they read the chapter. . . . I think the caveats are there. We say quite clearly that few scientists would say the attribution issue was a done deal."<36> In a June 2, 1997 debate, IPCC chairman Dr. Bert Bolin said, "the climate issue is not 'settled'; it is both uncertain and incomplete."<37>

5. A modest amount of global warming, should it occur, would be beneficial to the natural world and to human civilization.

Because so little is known about how the atmosphere functions, it is impossible to rule out the possibility that man-made greenhouse gases might cause some amount of warming (or cooling). Would some degree of warming be bad for most societies and natural environments? Probably not.

"During the 20th century," writes Dr. Patrick Michaels, "we have already proceeded more than half way to doubling the natural carbon dioxide greenhouse effect. Here is what resulted: Life expectancy doubled in the free and developed world. The developing world is catching up as their emissions rise. Corn production per acre increased five-fold. The growing season in the coldest latitudes increased slightly, but enough to increase greenness by 10 percent."<38>

The small amount of warming that occurred during the past century consisted primarily of increased minimum temperatures at night and during winters.<39> This means higher *average* temperatures, should they occur, would not result in more daytime evaporation, which some claim would lead to droughts and desertification. Warmer winters would mean longer growing seasons and less stress on most plants and wildlife, a substantial benefit for the global ecosystem. Finally, past warming has been accompanied by increased cloudiness, a

phenomenon also predicted by most global climate models. This means a warmer world would probably be a wetter world, which once again is beneficial to most plant and animal life.<40>

Not everyone believes a warmer world would be benign. In his 1993 book, *Earth in the Balance*, Vice President Al Gore claimed that "the climate changes that we are now bringing about by modifying the global atmosphere are likely to dwarf completely the ones that caused the great subsistence crisis of 1816-19, for example, or those that set the stage for the Black Death. . . . [H]undreds of millions of people may well become even more susceptible to the spread of diseases when populations of pests, germs, and viruses migrate with the changing climate patterns."<41>

Later in his book, Gore warns, "every coastal country will suffer adverse effects" from rising sea levels caused by melting polar ice.<42> Gore and others also claim that global warming will cause more floods, more droughts, more "torrential" rainfalls, and heavier snowfall.<43>

Gore's claims are at odds with much scientific research. The bacterium responsible for the epidemic episode called the Black Death was transmitted by rats, which flourish in cool as well as warm climates. Cholera, another disease mentioned as a potential threat, is readily brought under control by treating water supplies with chlorine. Like most other bacteria-based diseases, the problem is not a difference in average temperatures of one or two degrees, but a lack of sanitary living conditions, food, and water.<44>

The latest research suggests that sea levels would decline, not rise, if temperatures rise, due to increased evaporation from the oceans and subsequent precipitation.<45> Increasing polar temperatures by a few degrees would not cause ice or snow to melt because the original temperatures are so low the new temperatures would still be well below freezing. However, the slightly warmer air *would* be able to retain more moisture, meaning more snowfall in polar regions and *more*, not less, water locked up in snow and ice.<46>

"Torrential" rainfalls turn out to be any rainfall of 2 inches or more in a 24-hour period, something every farmer knows would likely be a blessing rather than a curse.<47> The number and intensity of hurricanes occurring in the Atlantic (the ocean basin with the highest quality data) has steadily fallen since aircraft reconnaissance began in 1944.<48> The IPCC itself found "no evidence that extreme weather events, or climate variability, has increased, in a global sense, through the 20th century," noting that some regions exhibit greater variability and others less.<49>

In short, a slightly warmer world would probably be greener and a little cloudier than our world today, but otherwise not much different. As Dr. Patrick Michaels asked members of Congress during his 1997 testimony, "How much of the money of the citizens of this nation are you willing to spend to stop this? How much to stop a slight amelioration of the coldest temperatures, in the air-masses most inhospitable to unprotected life? How much to stop making the Earth greener, more productive, and human life increasingly long over the mass of the planet that still finds us the envy of history?"<50>

6. Quickly reducing our greenhouse gas emissions would be costly and would not stop global warming.

Attempting to reduce emissions quickly requires retiring existing capital stock (tools, equipment, machinery) before the end of its useful life.<51> Forcing more rapid technological change is possible, but it is costly. The cost to only one country--the United States--of reducing and stabilizing only

one greenhouse gas--CO₂--to 93 percent of 1990 levels ranges from 2.4 million to 3.1 million jobs lost and an annual reduction in gross domestic product of between \$177 billion and \$318 billion.<52> Alone, this would be a staggering cost. But it is only a fraction of the amount the entire world would have to spend *each year* to implement the Kyoto Protocol.

Another cost of the Kyoto Protocol is more difficult to quantify but no less real. Virtually all economic activities, and many purely recreational or consumptive activities, involve the use of energy and consequently the release of greenhouse gases. A treaty that proposes to limit greenhouse gases therefore is a license for governments to monitor, tax, regulate, or ban virtually any activity. That this is an international treaty giving vague enforcement powers to a new United Nations bureaucracy is especially disturbing. "It would be the first time in history," said Sen. Larry Craig (R-Idaho), "that an American President has allowed foreign interests to control and limit the growth of the U.S. economy."<53>

For all this pain, there would be little gain. "Actions by the industrial countries alone," says Eugene Trisko, a spokesperson for the United Mine Workers of America, "cannot achieve any of the target [greenhouse gas] concentrations that are now frequently discussed within the scientific community. . . . [I]n order to approach those targets, emissions from the industrial countries have to go below zero. We have to more than disappear from the map to achieve any of them."<54>

Tom Wigley, a climate researcher at the National Center for Atmospheric Research (NCAR), says "a short-term target and timetable, like that adopted at Kyoto, avoids the issue of stabilizing concentrations entirely."<55> Similarly, Jerry Mahlman, director of the Geophysical Fluid Dynamics Laboratory at Princeton University, believes "it might take another thirty Kyotos over the next century" to slow down or stop global warming.<56>

Bert Bolin, Chairman of the IPCC, admitted in 1994 that the Kyoto Protocol would not stop global warming. In an address to the Conference of Parties in Geneva, he said: "Preliminary estimates using the central IPCC 92 scenario suggest that stabilization of greenhouse gas emissions at 1990 levels through 2100 by all Annex I [i.e., developed] countries would reduce annual emissions in 2100 by less than 15 percent and cumulative emissions by less than 10 percent."<57>

Dr. Michaels recently computed the "temperature saving" if the *entire world* reduced greenhouse emissions to 1990 levels by 2010. (So long as developing countries refuse to limit their emissions, there is simply no way this could happen.) Using the NCAR model and the latest IPCC estimates of CO₂ increase rates, he finds the global temperature increase would be just 0.18 C less than baseline in 2040, a mere 7 percent of the IPCC's "best estimate" temperature increase.<58>

7. The best strategy to pursue is one of "no regrets."

Some environmentalists call for a "save-the-day" strategy to "stop global warming," saying it is better to be safe than sorry. Such a position seems logical until we stop to think: Immediate action wouldn't make us any safer, but it would surely make us poorer. And being poorer would make us *less* safe.

Researchers have found a close relationship between a nation's standard of living (its wealth) and many measures of public health and safety.<59> Wealthier societies are able to invest more in things that ensure safety, such as guardrails on highways, vaccines against diseases, and safe drinking water. Simply put, wealthier is healthier.

The "save-the-day" strategy will definitely make us poorer, to the tune of hundreds of billions of dollars each year. If that money is no longer available to purchase safety-enhancing devices, plainly we will be less safe as a result of our efforts to "stop global warming." We would, moreover, be depriving our children and grandchildren of the capital and new technologies that would enable them to live better lives than we did.

CO₂ stays in the atmosphere for decades, meaning each year's emissions are only a small percentage of the total amount of CO₂ in the atmosphere. Consequently, immediate large reductions in emissions have relatively small effects on concentrations of greenhouse gases.

Whether emission reductions occur now or thirty years from now, they will have the same overall impact. If it proves necessary to make reductions, the *cost* of making reductions later, after new technologies now under development become available commercially and after current capital stock has come up for replacement, is likely to be much less than the cost of making reductions today.

The best strategy is to invest in atmospheric research to determine whether a genuine threat exists, and to invest in reducing emissions only when such investments make economic sense in their own right. Reduced emissions, then, are an added benefit.

This strategy is called "no regrets." It positions us to respond quickly to bad news while avoiding the mistake of spending too much, too soon, preparing for a threat that never materializes. Some of the activities that would form part of a no-regrets strategy include:

- Fund research on the effects of higher CO₂ concentrations on plants and agriculture.
- Break the federal monopoly over global warming research, which currently has the effect of funding only those researchers who support the catastrophist view of global warming.
- Lower capital gains taxes and make other changes to tax policies and regulations to encourage new investments in capital and technology, thereby speeding up the process of phasing out inefficient machinery.
- Repeal regulations that stand in the way of energy efficiency, such as restrictions on operating small businesses at home, and zoning ordinances that lead to urban sprawl.<60>
- Carefully target investments where they are needed to accommodate climate change. For example, higher sea levels, should they occur, could be addressed by modest improvements to dikes and seawalls in some areas, and by relocating homes and businesses in other areas. This cost--spread out over the course of a century--would surely be less than the cost of attempting to prevent climate change through energy taxes or emission caps.<61>
- Replace "command and control" regulations, which tell businesses what they must do to reduce emissions, with flexible and incentive-based rules that allow the use of lowest-cost options. This would end the pure waste of billions of dollars a year, allowing some part of that savings to be invested in research or ways to accommodate climate change.

The alternative to the Kyoto Protocol is not to do nothing. The "no regrets" strategy is a comprehensive alternative that promises much superior results *without* the enormous social costs and losses of liberty that would accompany

implementation of the Kyoto Protocol. The contrasting means and results of the two approaches is summarized below.

Kyoto Protocol	No Regrets Strategy
<ul style="list-style-type: none"> • Higher energy costs • More regulations • More bureaucracy 	<ul style="list-style-type: none"> • More research • Lower taxes on capital • Less regulation • Targeted investments
Lose 2,400,000 jobs	Cost the average family \$2,700 per year
Less wealth produces less safety	Insurance against global warming
	Greater wealth and freedom
	More safety

What you can do

Call or write your elected representatives in Washington and your state capitol. Tell them you oppose a climate treaty based on "junk science" that would cost tens of thousands of family farms each year, and cause millions of jobs to disappear.

Write to the editor of your local newspaper. Challenge reporters to discuss the enormous costs to real people of the proposals being put forward to "stop global warming." Point out the shortcomings of the science of global climate change. Demand to know why your point of view is not being given equal coverage in the debate.

Talk with your friends, coworkers, and family members about the shaky science and huge costs of the global climate treaty. Urge them to join you in contacting elected officials and journalists, and help them spread the word to *their* friends, coworkers and families.

Endnotes

1. Carbon dioxide, methane, and the other gases that would be regulated under the Kyoto Protocol are called "minor" greenhouse gases because together they make up only 1 percent of the atmosphere and account for less than 5 percent of the natural greenhouse effect. Thomas Gale Moore, *Climate of Fear: Why We Shouldn't Worry about Global Warming* (Washington, DC: Cato Institute, 1998), pages 10-11.
2. The full text of the Kyoto Protocol is available in Adobe Acrobat's portable document format (PDF) on the Internet at www.unfccc.de/fccc/conv/file01.htm.
3. "Administration Tries 'End-Run' on Kyoto," *Environment News*, April 1998, page 9.
4. WEFA, *Global Warming: The High Cost of the Kyoto Protocol. National and State Impacts*. Eddystone, PA: 1998).
5. Ibid. See also CONSAD Research Corporation, *The Kyoto Protocol: A Flawed Treaty Impacts America. Sectoral and Regional Economic Impact Analysis*. May 1998.
6. The names of persons who have signed the petition can be viewed at <http://www.oism.org/pproject>. See also "15,000 Scientists Urge Congress to Reject Kyoto Global Warming Treaty," *Environment News*, Vol. 1, No. 9, May 1998, pages 1, 5.
7. Citizens for a Sound Economy, "Analyses Finds Only 10% of Ozone Action 2600 are 'Experts' on Global Warming," news release, October 29, 1997.
8. Dr. S. Fred Singer, *Hot Talk, Cold Science: Global Warming's Unfinished Debate* (Oakland, CA: The Independent Institute, 1997), pages 40-43.
9. American Viewpoint, "Survey of State & Regional Climatologists," September-October 1997, Annotated Questionnaire," October 1997, <http://www.cse.org/cse/surveyenviroreg100897.htm>.
10. Ross Gelbspan, *The Heat is On: The High Stakes Battle Over Earth's Threatened Climate* (New York, NY: Addison-Wesley Publishing Company, 1997).

11. Paul Georgia, "The Warmest Year on Record?" *CEI Update*, February 1998. Available at www.cei.org/update/1998/0298-pg.html.
1. Ibid. See also Dr. Roy Spencer, "Truth and Consequences: In Defense of the Satellite Data," in Dr. Patrick J. Michaels, ed., *State of the Climate Report 1998*, New Hope Environmental Services, Inc.
13. Dr. Patrick Michaels, "New Independent Measure Verifies Satellite Accuracy," *World Climate Report*, July 13, 1998, pages 1-2.
14. Dr. Patrick Michaels, "The Effects of Proposals for Greenhouse Gas Emission Reduction." Testimony before the Subcommittee on Energy and Environment of the Committee on Science, U.S. House of Representatives. November 6, 1997.
15. NASA/Marshall Space Flight Center Web site, February 6, 1997.
16. Dr. Vincent Gray, "Climate Change 95: An Appraisal." *Heartland Policy Study* (Chicago, IL: The Heartland Institute, September 10, 1997).
17. Dr. Robert Balling Jr., Briefing on Global Warming. Sponsored by the Competitive Enterprise Institute and the National Center for Policy Analysis, June 13, 1997.
18. IPCC, *Climate Change: The IPCC Scientific Assessment*, 1990 (1993), page 49. See also page 251. The IPCC's *Climate Change 1995* report was published in three volumes, each representing the report of a different Working Group: Working Group 1, *The Science of Climate Change*; Working Group 2, *Impacts, Adaptations and Mitigation of Climate Change: Scientific-Technical Analyses*; and Working Group 3, *Economic and Social Dimensions of Climate Change*. The report was published by Cambridge University Press, Port Chester, New York, in 1996. For ordering information, call 1-800-872-7423.
19. "General Circulation Model outputs should be treated, at best, as broad-scale sets of possible future climatic conditions and should not be regarded as predictions." IPCC, *Climate Change 1995, Impacts, Adaptations and Mitigation of Climate Change: Scientific-Technical Analyses*, page 803.
20. Dr. Hugh W. Ellsaesser, "The Misuse of Science in Environmental Management." *Heartland Policy Study* (Chicago, IL: The Heartland Institute: December 8, 1995), page 20.
21. Dr. Sally Baliunas, "Uncertainties in Climate Modeling: Solar Variability and Other Factors," testimony before the Committee on Energy and Natural Resources of the U.S. Senate, 1996.
22. Dr. Richard Lindzen, "Global Warming: The Origin and Nature of the Alleged Scientific Consensus," *Regulation: The Cato Review of Business and Government*, Spring 1992.
23. Richard A. Kerr, "Greenhouse Forecasting Still Cloudy," *Science*, May 16, 1997, page 1041.
24. P. Pilewskie and P.F.J. Valero, "Direct Observations of Excess Solar Absorption by Clouds," *Science*, 267 (1995), pages 1626-1629.
25. Dr. Patrick Michaels, "Watts Wrong With the Models: How New Observations Invalidate Earlier Forecasts," *World Climate Report*, December 4, 1995, page 1.
26. Dr. Robert Jastrow, Dr. William Nierenberg, and Dr. Frederick Seitz, *Scientific Perspectives on the Greenhouse Problem* (Washington, DC: The George C. Marshall Institute, 1990), pages 49-59.
27. Dr. Vincent Gray, supra note 16.
28. See T.M.I. Wigley, R. Richels, and J.A. Edmond, "Economic Choices in the Stabilization of Atmospheric CO₂ Concentrations," *Nature* 379 (1996), pages 240-243; Dr. Patrick Michaels, "The Threat Is Over," *World Climate Review*, June 9, 1997, page 2.
29. Richard A. Kerr, supra note 23, page 1040.
30. Ibid.
31. IPCC, *Climate Change 1995, The Science of Climate Change*, page 39.
32. Ibid., page 39. This sentence appears in the Technical summary of the report. The discussion in the body of the report, on page 439, is loaded with qualifications that make the sentence even less persuasive. The authors admit that their conclusion is "subjective," and refer to their findings as "an initial step . . . in the direction of attribution."
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36. Richard Kerr, supra note 23, page 1040.
37. Jerry Taylor, "The Heated Rhetoric of Global Warming," *This Just In*, Cato Institute, September 15, 1997.
38. Dr. Patrick Michaels, "U.N. Global Climate Treaty," Testimony before the Subcommittee on International Economic Policy, Export and Trade Promotion of the Senate Foreign Relations Committee, June 26, 1997.
39. IPCC, *Climate Change 95, The Science of Climate Change*, pages 27 325-327, and 437. See also P.J. Michaels and D.E. Stoksbury, "Global Warming: A Reduced Threat?" *Bulletin of the American Meteorological Society*, Vol. 73 (1992), pages 1563-1577.
40. Dr. Robert C. Balling, Jr., "Global Warming: Messy Models, Decent Data, Pointless Policy," Competitive Enterprise Institute, November 1994, pages 13-14.
41. Al Gore, *Earth in the Balance* (New York, NY: Houghton Mifflin Company, 1993), page 74.
42. Ibid., page 104.
43. William K. Stevens, "More Extremes Found in Weather, Pointing to Greenhouse Gas Effect," *The New York Times*, May 23, 1995, page B7.
44. Gary Taubes, "Apocalypse Not," *Science*, Vol. 278, No. 7 (November 1997), pages 1004-1006.; Dr. Sidney Shindell, M.D., and Jack Raso, M.S., R.D., *Global Climate Change and Human Health* (New York, NY: American Council on Science and Health, October 1997).
45. Dr. S. Fred Singer, supra note 8. See also H. Sterling Burnett, "Myths of Global Warming," *Brief Analysis*, National Center for Policy Analysis, May 23, 1997.
46. K.W. Nicholls, "Predicted Reduction in Basal Melt Rates of an Antarctic Ice Shelf in a Warmer Climate," *Nature*, Vol. 388, July 31, 1997, pages 460-461.
47. Dr. Patrick Michaels, "'Torrential' Rains Increase!" *World Climate Report*, Vol. 1, No. 4, n.d., page 1.
48. Dr. C.W. Landsea et al., "Downward Trends in the Frequency of Intense Atlantic Hurricanes During the Past Five Decades." *Geophysical Research Letters*, Vol. 23 (1996), pages 1697-1700.
49. IPCC, *Climate Change 95, The Science of Climate Change*, page 173.
50. Dr. Patrick J. Michaels, supra note 38.
51. "[L]arge emissions reductions in the near term will require accelerated retirement of the existing capital stock. This is apt to be costly. There will be more opportunities for reducing emissions cheaply once the current capital equipment turns over." IPCC, *Climate Change 1995, Economic & Social Dimensions of Climate Change*, page 308.
52. See the reports by WEFA and CONSAD Research Corporation, supra notes 4 and 5.
53. Quoted in Angela Antonelli and Brett Schaefer, "From Fear to Folly: Why the Kyoto Agreement is 'A Very Bad Deal.'" *Background Update* No. 289, The Heritage Foundation, December 23, 1997.
54. Ibid.
55. Quoted in David Malakoff, "Climate Change: Thirty Kyotos Needed to Control Warming," *Science*, December 19, 1997.
56. Ibid.

57. Bert Bolin, "Report to the Tenth Session of the Intergovernmental Negotiating Committee for a Framework Convention on Climate Change," Geneva, August 22, 1994.

58. Dr. Patrick J. Michaels, "Kyoto: Damn the Economy! Full Speed Ahead!" *World Climate Report*, January 5, 1998, page 2.

59. Aaron Wildavsky, *Searching for Safety* (New Brunswick, NJ: Transaction Books, 1988), Chapter 3.

60. Joseph L. Bast, "Technology and Global Warming," comments at the Citizens Coalition on Global Climate Policy Town Hall Meeting, Denver, Colorado, June 2, 1997. Available from the author.

61. Jesse H. Ausubel, "Mitigation and Adaptation for Climate Change: Answers and Questions," *The Bridge*, Vol. 23, No. 3 (Fall 1993)."

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

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

"Yes Madame Speaker, I have strong reservations."

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

Representative Morita's written remarks are as follows:

"Mr. Speaker, I rise in support of HB 2513 HD 1.

"Global warming has been dubbed by one academic as the 'public policy problem from hell.' He was referring to a threatening situation where once the full impacts to society of global warming are felt, it will be too late to act. Policymakers are thus forced into the position of being proactive in addressing a problem that is difficult to quantify and is beyond political boundaries.

"There is no strong constituency pressing for action, not when people are more concerned about traffic cameras, the budget, schools, teacher pay raises, and gambling. These issues that are current, in the news, and the public is calling on us to take action. But, an issue like global warming just does not seem real yet.

"However, the vast and overwhelming scientific consensus is that global warming is real, dangerous and immediate. The International Panel on Climate Change, a body of the world's foremost climatologists convened by the United Nations, has concluded that we will raise the planet's average temperature four to ten degrees in the next century. For Hawaii and other Pacific Island nations, the science shows that our future will bring rising sea levels of up to 3 feet, increased hurricane intensity and frequency, and decreasing freshwater aquifers. It may be the biggest threat to the way of life in Hawaii and other island nations as we know it. All this may sound hyperbolic and inconceivable, but this is what the scientists are telling us.

"Fortunately we have the tools that can address the problem. These tools are likely to foster new industry and significant economic benefit for Hawaii. House Bill 2513, HD 2 is a small step in that direction. House Bill 2513 HD 2 provides incentives to reduce Hawaii's carbon dioxide emissions and concomitantly encourages new clean energy development within the State and supports the forestry industry. This bill places a 25-cent fee on each ton of carbon dioxide emitted by inefficient, fossil fueled power generation facilities. The fee is then used for programs to encourage the renewable energy use, implement energy efficiency measures, or plant trees-anything that results in the direct reduction of carbon dioxide emissions.

"Hawaii is not the first take such action. Sweden, Denmark, Norway, Finland, Netherlands all tax carbon dioxide emissions. Some will view this measure quite narrowly and see it only as a tax and not as a progressive policy tool used to apply gentle pressure to correct the course of our current fossil fuel energy strategy.

"Let's look at the main arguments against this measure:

"First, the electric utilities are saying they feel that they are being unilaterally selected for carbon reductions. They say why pick on them when the transportation sector emits just as much carbon dioxide. This is true. However, both the electric utilities and the transportation sectors emit about 10 million tons of carbon dioxide annually, or about 45% of the total each. While we should be addressing all major sources of carbon dioxide, our best option at this point in time is in addressing the emissions from our aging electric power plants. We are not prepared, nor do we have the technology to decrease carbon dioxide from air travel which is a significant portion of the transportation sector. Ships that bring in food and other products to the islands all burn fossil fuels and is unlikely to change anytime soon. Cars and trucks manufactured mainly in Detroit and Japan, are really out of our hands although there is a movement towards fuel cell vehicles fueled by hydrogen. However, if fuel efficiency standards is an indicator, one will understand that industry is slow to change.

"Data shows that carbon dioxide emissions are rising in the electric utility sector. Between 1990 and 1997, emissions from Maui Electric Company alone grew over 30%. We also have opportunities to replace aging generators with cleaner and more efficient units, therefore, the best start to tackle carbon dioxide emissions today is with our stationary, electric powerplants.

"Second, critics of this measure point to costs. They say that the utilities are not going to take action to reduce their emissions and simply pass the cost on to the ratepayers. If true and our utilities doggedly refuse to move away from dependency on imported coal and oil, then this bill will cost half-penny per day per ratepayer starting in 2005. However, the funds collected will be used for programs-such as energy efficiency in state buildings or solar panels for schools that will ultimately decrease costs statewide.

"But the true goal of HB 2513 HD 2 is to lead the state away from carbon-emitting fossil fuels and toward clean energy sources, such as wind, solar, hydro, and biomass. Economic analysis have produced the evidence that such a switch will save the state hundreds of millions of dollars. Last year, an independent study, commissioned by the Department of Business Economic Development and Tourism, GDS Associates, Inc., concluded that by increasing to a 10.5% renewable energy level over existing levels would save the state hundreds of millions of dollars over the next 20 years as compared with the current energy plan. The savings come from reduced expenditures on imported oil and the cost savings from offsetting the construction of new powerplants-some of which cost upwards of half a billion dollars. The cost of taking action is in our favor, the cost of doing nothing is not.

"And, if companies choose to sequester their carbon dioxide emissions, for example by planting trees on the Hamakua Coast, these companies can avoid paying the 25-cent fee. In fact, AES, the company that runs the coal plant at Campbell Industrial Park, will not be taxed under this bill. Over a decade ago AES voluntarily purchased part of a forest in Paraguay with the help of The Nature Conservancy that will 'sequester' twice the carbon than their plant will emit over its lifetime. Still, AES sells electricity at competitive prices.

"We are at a critical juncture. We have reports from the foremost experts in the field of science and climatology us that if we fail to reverse our 'business as usual' course it could result in disaster. Business as usual for Hawaii means a 40% increase in carbon dioxide emissions between 1990 and 2020 at a time when scientists are calling for a 70 to 80% reduction in emissions.

"However, at the same time, clean energy technologies have matured and are proving themselves cost efficient and competitive. But adoption of new energy sources means change-and sometimes uncomfortable change for companies that have institutionalized one way of doing business.

"We have the facts on global warming before us. Ignorance is no longer an excuse. The economy is not an excuse. Future generations will judge us based on whether or not we take immediate action to abate carbon emissions.

"Hawai'i can rein in its carbon dioxide emissions and enjoy the economic benefits of doing so.

"I urge my fellow colleagues to vote yes on HB 2513 HD 1."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2513, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE REDUCTION OF CARBON DIOXIDE EMISSIONS," was referred to the Committee on Finance with Representatives Bukoski, Gomes and McDermott voting no, and with Representatives Pendleton, Rath and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 406-02) recommending that H.B. No. 2723, HD 1, as amended in HD 2, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2723, HD 2, entitled: "A BILL FOR AN ACT RELATING TO COUNTIES," was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 407-02) recommending that H.B. No. 2306, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2306, HD 1, entitled: "A BILL FOR AN ACT RELATING TO JUDICIARY RECORDS," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 408-02) recommending that H.B. No. 2033, HD 1, as amended in HD 2, be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2033, HD 2, be referred to the Committee on Finance, seconded by Representative Lee.

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

"I register a no vote against this, and I would like to point out that this is going to be a question for the people to decide. For

two times they have voted down an appointed BOE. I don't think that the people will go for anything that doesn't give them more power rather than less. This is abolishing the State BOE which I am all for, but there is no provision in this ballot question about how we are going to elect local school boards, if any. In fact there is no reference to local school boards here, so I cannot vote for this."

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

"I like the idea of abolishing the BOE. I think that we need to do that. Like the previous speaker said, we need to amend this bill slightly and tie it to H.B. 2037. Have them both tied together so if one doesn't pass, the other doesn't pass. We have to amend both bills as we work it through, both houses. Both sides of the aisle in this House, I think, are committed to make some changes. So let's work together and let's get it done."

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

Representative Fox continued, stating:

"Again, I would like the remarks of the Representative from Puna entered into the record as if they were my own. She has the basic point that if we abolish the elected statewide Board, it must be replaced with elected boards at the local levels. Nothing else is going to work with the people. We can provide that with this constitutional amendment if it is linked to a bill that provides for elected local boards. Thank you."

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

"Thank you Madame Speaker. I rise in support with reservations, and my reservations are based on the remarks of the speakers from Puna and Waikiki. Also just a concern that I have with the bill itself, on the constitutional question on page 6. There seems to be four questions rolled into one, and I just wonder if that in itself is going to be a problem. It just seems an oddity to me and maybe there is a way we can re-craft this, to break up the question separately. It just seems that there is too much being asked by this particular 'super question.'

"So those are my reservations, but I am glad that this measure is going forward and that the discussion continues. Thank you Madame Speaker."

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

"Yes Madame Speaker, I too support this bill with reservations. First I think that leaving the question up to the people is good. As previous speakers have said, there is an alternative. You do a good job on the previous education reform bill, and I think people will know that there is an alternative to a central elected board. Who knows? That amendment could pass.

"I have concerns about the other parts such as the Selection Commission. Having being the Chairman of two previous search committees for Superintendents of the past, I can speak with some experience in terms of the realities of the situation when you select a superintendent, nationally as well as locally. On a national level, you know that we have close to 16,000 superintendents. Their average tenure in their jobs is slightly under 4 years. We also have a national employment agency which recruits, places, and collects resumes throughout the country because of the turnover rate throughout the country.

So what happens in a national search is simply this, we do not have qualified, well-qualified superintendents equal to the tenth largest school district in America. This I believe is the most difficult superintendent job because of the three boss systems that we have. So we have never had qualified, good candidates for superintendent in the past. That is nationally, now.

"Locally, since we haven't had that, then what do we do we have this search committee. Well let's put it this way. If the search committee looks at applicants and they would have to make a determination as to what the public schools would need. They would submit names to the Governor three, four, or five names, and then the Governor appoints one, and then it goes before the Senate for their consent.

"The problem here is that this is duplicative or unneeded because in the previous bill, remember we said that the Superintendent is only going to be a coordinator. Very clearly, a coordinator. Not a person accountable, as you put it in this bill, lines 4 and 5 on page one. You empower the Superintendent as provided by law, to form a statewide educational policy and supervise the statewide system. That is not going to happen in the other bill. It is going to be vested in your area board superintendents, and the area boards. And then 5, require the internal organization of the statewide system shall be as provided by law.

"You know, we've been very prescriptive in terms of the responsibilities of the complex supervisors, so three and four locally only means that we don't need a search committee to do these kinds of things. Again it goes back to making the Governor the supreme, the other half of which, people would have to go to us. We will still have the same problems which have plagued us over the years that I have been around. The two- and the three-headed boss system.

"I would urge that we continued this dialogue on the other bill and perhaps pose this question to the people one more time and settle it once and for all. Thank you."

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

"This constitutional amendment, first of all, eliminates the statewide elected school boards. Then it creates an appointed Superintendent to run our statewide school system. I know that in this Body, there is much sentiment to have a decentralized school system, and some of those ideas are embodied in H.B. 2037.

"I think to make this constitutional bill palatable to me, would be to eliminate the statewide elected school board, instead of an appointed superintendent, to run our system. If we instead put in the concept from H.B. 2307, which addresses our local elected school boards, that would be palatable to this Body and very palatable to the voters on November 5. Thank you."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2033, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," was referred to the Committee on Finance with Representatives Hale and Halford, voting no, and with Representatives Pendleton, Rath and Thielen being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 409-02)

recommending that H.B. No. 2584, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2584, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONCESSIONS ON PUBLIC PROPERTY," passed Second Reading and was referred to the Committee on Finance with Representatives Pendleton, Rath and Thielen being excused.

Representative Garcia, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 410-02) recommending that H.B. No. 1970, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1970, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII STATE EMERGENCY RESPONSE COMMISSION," passed Second Reading and was placed on the calendar for Third Reading with Representatives Pendleton, Rath and Thielen being excused.

Representative Garcia, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 411-02) recommending that H.B. No. 2382, as amended in HD 1, passed Second Reading and was placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2382, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

Representative B. Oshiro's written remarks are as follows:

"Mr. Speaker, I rise in strong support of this measure as it promotes public awareness in the crucial issue of siting of correctional facilities. While the 'NIMBY' – 'not in my backyard' concerns will constantly exist for any correctional facility in a community, my constituents have expressed a keen interest in this bill since the Halawa Correctional Facility is within the 33rd district. Especially as there was recent news of a proposal to expand the Halawa facility, I have realized that notification to the affected community is an essential factor so that proper education and acceptance by the residents can begin, if achievable.

"As a growing number of problems have arisen with regards to prison overcrowding, along with the difficulties faced by the Oahu Community Correctional Center being in the center of the Kalihi area, the introduction of HB 2382 is an admirable attempt at rectifying community concerns. Creating a bill that will outline the duty of the governor with regards to the site selection process as well as the participation process of the public is a step towards a more workable solution to the growing correctional industry."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2382, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONAL FACILITIES," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Pendleton, Rath and Thielen being excused.

INTRODUCTION OF RESOLUTIONS

By unanimous consent, the following resolution (H.R. No. 19) and concurrent resolution (H.C.R. No. 36) were referred to Printing and further action was deferred:

H.R. No. 19, entitled: "HOUSE RESOLUTION REQUESTING THE STATE OF HAWAII TO RECOGNIZE FEBRUARY 6 AS "RONALD REAGAN DAY"," was jointly offered by Representatives Fox, Rath, Moses, Djou, Stonebraker, Halford, Pendleton, Thielen, Ontai, Gomes, Whalen, Bukoski, Auwae, Marumoto, Davis and McDermott.

H.C.R. No. 36, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE STATE OF HAWAII TO RECOGNIZE FEBRUARY 6 AS "RONALD REAGAN DAY"," was jointly offered by Representatives Fox, Rath, Moses, Djou, Stonebraker, Halford, Pendleton, Thielen, Ontai, Gomes, Whalen, Bukoski, Auwae, Marumoto, Davis, McDermott and Leong.

RECALL FROM COMMITTEE

At this time the Chair addressed the Body, stating:

"Members, H.B. No. 909 was recalled from the Committee on Human Services and Housing on Wednesday, February 13th, and further consideration was deferred until this evening. At this point, the Chair will entertain any motions."

Representative Fox moved that H. B. No. 909 pass Second Reading and be referred to the Committee on Finance, seconded by Representative Djou.

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

"Madame Speaker, I believe that this is a bill worthy of seeing further action in the legislature. It does the proper thing of encouraging childcare at the work site. This is a common practice throughout the developed, industrialized world. And the United States, including Hawaii, is sort of behind the curve on this development.

"A tax credit in this area will encourage employers to move in the direction of providing childcare onsite. It is also worthy that in this bill while we encourage dependent care through credits offered by the employers. These are two good measures that would help the families of Hawaii. I would say that money spent on prevention, beats money to spend on treatment, and beats money to be spent down the line on trying to take care of some of the problems that arise in families. Excellent childcare is an economical and well spent way to take care of our population in Hawaii. I want to particularly to applaud the primary introducer of this bill."

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

"Thank you Madame Speaker in support. It is a work in progress and it has been referred to the correct Committee on Finance. Some of these figures have to be looked at, researched, and balanced in the states budget. We have to see what can and what can't be done. But it is a bill that is much worthy of moving forward and being properly addressed and eventually passing. Thank you Madame Speaker."

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

"Thank you Madame Speaker. I am rising in favor of this particular bill. First off, Madame Speaker, it has long been my contention, and the contention of a number of members of the Minority Caucus, that we need to do more to put more cash into our economy to stimulate our economy. Whatever efforts we can do reduce the tax burden here in our state is a good thing and one we should undertake.

"This bill does exactly that, but furthermore, this bill has the advantage that is a tax credit in an area that is needed in a sector of our economy. It is the development of further childcare services. It is widely recognized that there is not enough adequate childcare here in our state. We certainly hope that with the passage of this legislation we can further that aim here in our state by developing more childcare facilities here in Hawaii.

"Finally Madame Speaker, I'd like to note that this is a good idea. This bill was sign by 17 members of this House, including 15 members of the Majority Caucus. It deserves further discussion, and further exploration. The Minority Leader moved that this pass Second Reading and refer this bill on to the Finance Committee for precisely that reason. That it deserves further discussions and should be heard and brought before the public. For all these reasons, I stand in strong support of this bill."

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

"I know that I am going to sound like a broken record. Here we go again, recalling a bill that proposes a tax credit. Where is the end to this madness? If we spent enough floor time on all the other introduced bills, can you imagine how long the Session would be? It is my lovely wife's birthday tonight, and I have got to wish her a happy birthday. She is going home right now. We are part-time legislators. The whole purpose of the legislative process is to reduce the number of bills to a workable group that can be discussed and debated intelligently."

Representative Gomes rose to a point of order, stating:

"It seems the speaker is off the merits of the bill itself, and if you can direct him accordingly."

The Chair responded, stating:

"I think that he was getting to the point. Thank you Representative Gomes."

Representative Kahikina continued, stating:

"Thank you for the interruption. I guess I am going to try and practice my Second Reading speeches for my Third Reading speeches, so I will pitch that since tonight, it seems like everybody is awake and wanting to speak.

"What is worse is that it seems like this bill is being recalled 'willy-nilly' without any research or thought on the part of who recalled the bill. I've said this before, and I'll say it again. I am not against tax credits, but the whole purpose of the hearing process is for all of us to learn about the issue and make an educated decision."

Representative Meyer rose to a point of order, stating:

"The speaker is not talking about the bill at all. He is just rambling on about something that has nothing to do with the bill before us."

The Chair responded, stating:

"Representative Kahikina is talking about the tax credit."

Representative Meyer: "No, I think he is talking about the merits of recalling bills."

The Chair addressed Representative Kahikina, stating:

"Representative Kahikina, we have surpassed the recall question. Please talk about the tax credit."

Representative Kahikina continued, stating:

"Thank you Madame Speaker. We are talking about being statesman. That even if I introduce a tax credit bill myself, looking at and investigating the whole situation would cause us to be statesmen and stateswomen, who would do what would be good for the whole State. H.B. 909 proposes a tax credit for employers or taxpayers of a percentage of either the start up cost of the childcare facility or the cost incurred by taxpayers for contribution to childcare information and referral services. It is clear that the introducers of the bill had good intentions. I signed on to the bill probably. I think that all of us have good intentions when we introduce bills.

"We need to educate ourselves before we make decisions. Even though we mean well, we need to hear from all the effective parties to see how they would be impacted. We also need to hear from objective parties like the Tax Foundation, who can see both sides of the picture. The first thing the Tax Foundation says about this measure is that, and I quote from their written testimony, 'The tax system is not intended to be a social tool but merely a way for government to raise the money it needs to provide the public services. Credits and exemptions are designed to elevate a tax burden that is excessive for certain taxpayers.' In other words we need to determine whether the tax burden on childcare services is excessive. But we don't have the opportunity to determine that here on the floor.

"The next point the Tax Foundation makes is that the current law already provides tax relief through an income exclusion for employer provided dependent care expenses. Both federal and state laws extend a tax credit for dependent care expenses. Essentially what the Tax Foundation is telling us is that there is no justification for this proposed bill. That explains why this bill was not heard in committee. Why should we waste time on something that we found out was unnecessary before hand.

"The Tax Foundation also suggested that the bill might have been intended to address the availability of affordable quality childcare. Part of leadership is being able to delegate. The Legislature has delegated that responsibility to the Good Beginnings Alliance who has been doing an incredible work in the area of childcare. The Good Beginnings Alliance acts as a legislative liaison for childcare initiatives. The Alliance has a statewide community council on each major island and directors to State agencies work with the Alliance in joint policy making.

"The Alliance started the Open Doors Program which provides preschool tuition assistance. The Alliance has a master plan that is a work in progress, which we could do more of, rather than debating more of this. It is working towards pulling together resources for coordinated childcare and educative system. What I am saying is that we already have avenues to explore in terms of affordable childcare. Things don't happen overnight. They need time to grow and come together. We should work on permanent solutions not temporary band-aids. In fact the Tax Foundation states that some other states implemented tax credits to encourage employers to provide childcare services..."

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

Representative Kahikina continued, stating:

"In those states, the credits had limited success. Another thing that I've said before is that times have changed. Hello? Are we in denial. This bill was introduced over a year ago. After September 11th, everything changed. I am sitting here, and I am listening to an addict that is in denial. It is like when the family is starving and they going out and taking their last money and buying that 'ice' saying that everything is all right. We'll spend the money and give it to the pusher. Are we giving credits away? Hello?

"We are in a situation where we have over a \$200 million deficit. Everything that you give, there is something else that is going to have to give. I am still here waiting for solutions.

"Madame Speaker, this is a well-intended bill but it is unnecessary. I urge my colleagues to vote no on this measure because of the times that we are in. I hope you not in denial like some of the people in here. After September 11th, this whole world changed. Please colleagues, give us solutions to the very need that we need. It is sad that I stand here opposing the tax credit that I really believe in, but I am going to rise above all the rhetoric. I am going to be a statesman. It is a good idea in a bad time and a bad situation. For those reasons I ask my colleagues to vote against it."

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

"I had no intention of saying anything, but that rousing speech that was just given inspired me to add my comments to this. I know it ended on rising above the rhetoric and being a statesman.

"This bill is to encourage childcare at the work and for the cost it is necessary associated with that. Part of the defense for voting no on this was that the tax code is not for achieving social goals, but merely raising money. I believe the speaker who made that statement a few moments ago is the same speaker that supported and voted for the cigarette tax credit and purported that we need to make it too expensive for minors to buy it.

"It seems a little bit incongruous, inconsistent to make a double standard type statement like that. Furthermore the motion, as I understand it, was that the bill move on to Finance Committee for the..."

Representative Kahikina rose to a point of order, stating:

"Is the person speaking on the bill or is he speaking of me."

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

The House of Representatives reconvened at 10:08 o'clock p.m.

Representative Whalen continued, stating:

"Thank you Madame Speaker. I won't go on especially in light of the former speaker being gone. I just want to add that the motion is for this bill to get a hearing, and so those comments should be disregarded because we agree that we need input, and we need to look at it in light of the whole budget. Thank you."

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

"I speak in support of the bill with some reservations, because the State Constitution gives the right to the Minority party to bring up bills that weren't heard, and we all agreed to hear this bill. Now as far as the argument that the Tax Foundation is against it, they're against every tax credit bill I've seen, and yet this Body has passed many a tax credit bill in spite of the Tax Foundation. So I feel that it is not going to go anywhere because, we don't have the money. I suggest that we let Finance deal with this. Thank you."

Representative Halford rose and stated:

"Madame Speaker, this is worthy bill to be heard in the Committee; to be explored further. This body has seen fit in the past to hear bills like the official State fish and the official State fruit. I think it would be worth our while to discuss this childcare bill. Thank you."

At this time, Representative Say called for the previous question, seconded by Representative M. Oshiro.

Representative Djou then requested a roll call vote, and by unanimous consent, the roll call was granted.

Representative Whalen rose to a point of order stating:

"Just for clarity. Technically, it should be voted on the motion to call for the question. I think it would be a unanimous vote for that and the roll call would go to the actual recalled bill."

The Chair directed the question to Representative Djou who answered in the affirmative.

The Chair then addressed the Body, stating:

"Let me take care of the first instance. Regarding the vote on the question. I am assuming that we have the vote on the question since Representative Djou was going to second it. If there are no objections, we are going right into the roll call vote."

Roll call having been previously requested, and by unanimous consent, granted, the motion that H.B. No. 909 entitled: "A BILL FOR AN ACT RELATING TO CHILD CARE TAX CREDIT," pass Second Reading and be referred to the Committee on Finance, was put to vote by the Chair and failed to carry on the following show ayes and noes:

17 Ayes: Representatives Abinsay, Arakaki, Auwae, Bukoski, Davis, Djou, Fox, Gomes, Hale, Halford, Jaffe, Leong, Marumoto, Meyer, Moses, Ontai and Whalen.

29 Noes: Representatives Ahu Isa, Cabrerros, Case, Chang, Espero, Garcia, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Souki, Suzuki, Takai, Takamine, Takumi, Yonamine and Yoshinaga.

5 Excused: Representatives McDermott, Pendleton, Rath, Stonebraker and Thielen.

Representative Hale rose to a point of information, stating:

"I thought we were voting on whether we would reconsider. I thought that was what you announced. Is that what we were voting on?"

The Chair responded, stating:

"No, we were voting on the motion to pass Second Reading. I explained that, because I assumed we probably had unanimous consent on the question, we were going to vote on the recall."

At this time, the Chair addressed the Body, stating:

"Members, during our February 13th floor session, Representative Gomes asked for the recall of H.B. 22 of the Third Special Session of 2001. At that time, the Speaker had ruled that it was inappropriate for the House to consider any measure from a Special Session.

"Representative Gomes asked that the Chief Attorney provide, in written form, the legal basis for that ruling. The Chief Attorney yesterday provided that legal analysis and copies should be on your desk, just for your information."

Representative Gomes rose to respond, stating:

"Madame Speaker, I would just like to thank the Speaker and the attorney from the Majority for 'cranking' that out so quickly. I don't agree with the conclusion, but I appreciate the quick-turn around. Thank you."

LATE INTRODUCTION

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

Representative Ontai introduced his "favorite girlfriend and wife of over 21 years," Mrs. Penny Lynn Ontai.

ADJOURNMENT

At 10:16 o'clock p.m. on motion by Representative Lee, seconded by Representative Djou and carried, the House of Representatives adjourned until 12:00 o'clock noon Tuesday, February 19, 2002. (Representatives McDermott, Pendleton, Rath, Stonebraker and Thielen were excused.)

TWENTY-SECOND DAY

Tuesday, February 19, 2002

The House of Representatives of the Twenty-First Legislature of the State of Hawaii, Regular Session of 2002, convened at 12:11 o'clock p.m., with the Speaker presiding.

The invocation was delivered by Mr. Terry Bosgra, Chairman of the Hawaii Youth for Christ, after which the Roll was called showing all members present with the exception of Representatives Arakaki, Gomes, Kahikina, Marumoto, McDermott, Pendleton, Rath, Saiki, Suzuki, Takai, Thielen and Whalen, who were excused.

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

INTRODUCTIONS

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

Representative Takumi introduced his former Committee Clerk Ms. Kimberly Click and her mother Mrs. Susan Click and sister Ms. Robin Click who were visiting from Long Island, New York.

ORDER OF THE DAY

INTRODUCTION OF RESOLUTION
(FLOOR PRESENTATION)

The following resolution (H.R. No. 20) was announced by the Clerk and the following action taken:

H.R. No. 20, entitled: "HOUSE RESOLUTION CONGRATULATING AND COMMENDING KAHUKU HIGH SCHOOL VARSITY FOOTBALL TEAM AND COACH SIUAKI LIVAI ON THEIR EXCITING TRIUMPH IN WINNING THE 2001 HAWAII'S STATE FOOTBALL CHAMPIONSHIP FOR THE SECOND CONSECUTIVE YEAR," was offered by Representative Magaoay.

Representative Magaoay moved that H.R. No. 20 be adopted, seconded by Representative Meyer.

Representative Magaoay introduced the following honorees who were seated on the floor of the House. Ms. Pauline Masaniai, Vice Principal Kahuku High School; Mr. Johnathan Mapu, Co-Captain and OIA Red Conference Defensive Player of the Year; Mr. James Kammerer, Co Captain; and Mr. Siuaki Livai, Head Coach.

Representative Magaoay also recognized the remaining members of the Kahuku Varsity Football Team seated in the upper gallery.

The motion was put to vote by the Chair and carried, and H.R. No. 20, entitled: "HOUSE RESOLUTION CONGRATULATING AND COMMENDING KAHUKU HIGH SCHOOL VARSITY FOOTBALL TEAM AND COACH SIUAKI LIVAI ON THEIR EXCITING TRIUMPH IN WINNING THE 2001 HAWAII'S STATE FOOTBALL CHAMPIONSHIP FOR THE SECOND CONSECUTIVE YEAR," was adopted, with Representatives Kahikina, McDermott, Pendleton, Rath, Saiki, Suzuki, Takai, Thielen and Whalen being excused.

At 12:22 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:52 o'clock p.m.

SUSPENSION OF RULES

On motion by Representative Lee, seconded by Representative Djou and carried, the rules were suspended for the purpose of considering bills on Third Reading on the basis of a modified consent calendar. (Representatives Ito, Kahikina, Kanoho, McDermott, Ontai, Pendleton, Rath, Suzuki, Takai and Thielen were excused.)

THIRD READING

H.B. No. 2601, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2601, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC FINANCIAL DISCLOSURE STATEMENTS," passed Third Reading by a vote of 42 ayes, with Representatives Ito, Kahikina, McDermott, Ontai, Pendleton, Rath, Suzuki, Takai and Thielen being excused.

H.B. No. 1716, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 1716, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUM PROPERTY REGIMES," passed Third Reading by a vote of 42 ayes, with Representatives Ito, Kahikina, McDermott, Ontai, Pendleton, Rath, Suzuki, Takai and Thielen being excused.

H.B. No. 2315, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2315, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE OBSTRUCTION OF INGRESS OR EGRESS," passed Third Reading by a vote of 42 ayes, with Representatives Ito, Kahikina, McDermott, Ontai, Pendleton, Rath, Suzuki, Takai and Thielen being excused.

H.B. No. 2530, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2530, HD 1, entitled: "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT INSURANCE APPEALS," passed Third Reading by a vote of 42 ayes, with Representatives Ito, Kahikina, McDermott, Ontai, Pendleton, Rath, Suzuki, Takai and Thielen being excused.

H.B. No. 1970:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 1970, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII STATE EMERGENCY RESPONSE COMMISSION," passed Third Reading by a vote of 42 ayes, with Representatives Ito, Kahikina, McDermott, Ontai, Pendleton, Rath, Suzuki, Takai and Thielen being excused.

H.B. No. 2382, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2382, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONAL FACILITIES," passed Third Reading by a vote of 42 ayes, with Representatives Ito, Kahikina, McDermott, Ontai, Pendleton, Rath, Suzuki, Takai and Thielen being excused.

The Chair directed the Clerk to note that H.B. 2601 HD 1; H.B. 1716, HD 1; H.B. 2315, HD 1; H.B. 2530 HD 1; H.B. 1970; H.B. 2382. HD 1; passed Third Reading at 12:54 o'clock p.m.

INTRODUCTION OF RESOLUTIONS

By unanimous consent, the following concurrent resolution (H.C.R. No. 37) was referred to Printing and further action was deferred:

H.C.R. No. 37, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE DEPARTMENT OF EDUCATION AND THE DEPARTMENT OF HEALTH TO NEGOTIATE THE INTRODUCTION OF HEALTHY JUICES AND SNACKS INTO THE DISPENSING MACHINES ALLOWED ON HAWAII SCHOOL PREMISES," was jointly offered by Representatives Arakaki, Takai, Ito, Kahikina, Takumi, Ahu Isa, Garcia, Kawakami, Bukoski, McDermott, Hale, Cabrerros, Stonebraker, Lee, Abinsay, Espero, Magaoay, Ontai, Schatz and Yonamine.

HOUSE COMMUNICATIONS

A communication dated February 19, 2002, from Patricia Mau-Shimizu, to the Honorable President and Members of the Senate of the State of Hawaii, informing the Senate that the House has discharged Representative Yoshinaga as a Co-Chair and added Representative Nakasone as a Co-Chair for the following House Bills:

H.B. No. 171, H.D. 1, S.D. 2
 H.B. No. 562, H.D. 2, S.D. 2
 H.B. No. 568, H.D. 2, S.D. 1
 H.B. No. 852, H.D. 2, S.D. 2
 H.B. No. 1056, H.D. 1, S.D. 1
 H.B. No. 1595, H.D. 1, S.D. 1

A communication dated February 19, 2002, from Patricia Mau-Shimizu, to the Honorable President and Members of the Senate of the State of Hawaii, informing the Senate that the House has made the following changes to the conferees on the following measures:

S.B. No. 449, Discharged Representative Yoshinaga as first Co-Chair.
 S.D. 2, H.D. 1
 Added Representative Saiki as first Co-Chair.

S.B. No. 849, Discharged Representative Yoshinaga as first Co-Chair.
 S.D. 1, H.D. 2
 Added Representative Saiki as first Co-Chair.

S.B. No. 733, Discharged Representative Yoshinaga as first Co-Chair.
 S.D. 1, H.D. 1
 Added Representative Nakasone as second Co-Chair.

S.B. No. 1058, Discharged Representative Yoshinaga as first Co-Chair.
 S.D. 1, H.D. 1,
 C.D. 1
 Added Representative Suzuki as second Co-Chair.
 Discharged Representative Davis as a member.
 Added Representative Rath as a member.

ANNOUNCEMENTS

Representative Saiki announced that the joint briefing between the Committee on Labor and Public Employment and the Committee on Health, that was scheduled for today at 2:30 p.m. would be deferred, indefinitely.

ADJOURNMENT

At 12:54 o'clock p.m. on motion by Representative Lee, seconded by Representative Djou and carried, the House of Representatives adjourned until 12:00 o'clock noon tomorrow, Wednesday, February 20, 2002. (Representatives Kahikina, McDermott, Ontai, Pendleton, Rath, Suzuki, Takai and Thielen were excused.)

TWENTY-THIRD DAY

Wednesday, February 20, 2002

The House of Representatives of the Twenty-First Legislature of the State of Hawaii, Regular Session of 2002, convened at 12:22 o'clock p.m., with the Speaker presiding.

The invocation was delivered by Representative Bertha C. Kawakami, after which the Roll was called showing all members present with the exception of Representatives Case, McDermott, Pendleton, Rath, Takai, Takamine and Thielen who were excused.

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

GOVERNOR'S MESSAGES

The following message from the Governor (Gov. Msg. No. 200) was received and announced by the Clerk was placed on file:

Gov. Msg. No. 200, transmitting the Foreign-Trade Zone No. 9's Annual Report, to the Foreign-Trade Zones Board for federal fiscal year ending September 30, 2001.

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 6 through 8) were received and announced by the Clerk were placed on file:

Sen. Com. No. 6, transmitting S.B. No. 2727, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM PROFESSIONAL AND VOCATIONAL LICENSING ACT," which passed Third Reading in the Senate on February 19, 2002.

Sen. Com. No. 7, transmitting S.B. No. 2751, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED," which passed Third Reading in the Senate on February 19, 2002.

Sen. Com. No. 8, transmitting S.B. No. 2813, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TIME FRAMES FOR BURIAL COUNCIL DETERMINATIONS," which passed Third Reading in the Senate on February 19, 2002.

On motion by Representative Lee, seconded by Representative Djou and carried, S.B. No. 2727, SD 1; 2751; and 2813, SD 1 passed First Reading by title and further action was deferred. (Representatives Case, McDermott, Pendleton, Rath, Takai, Takamine and Thielen were excused.)

DEPARTMENTAL COMMUNICATIONS

The following departmental communications (Dept. Com. Nos. 17 through 18) were received by the Clerk were placed on file:

Dept. Com. No. 17, from Marion M. Higa, State Auditor transmitting their report, Review of Revolving Funds, Trust Funds, and Trust Accounts of the Office of the Governor, Office of the Lieutenant Governor, Department of Education

and Hawaii State Public Library System, and the Office of Hawaiian Affairs.

Dept. Com. No. 18, from Alfred K. Beaver, Sr., Chair of the Corrections Population Management Commission, transmitting their Annual Report.

MISCELLANEOUS COMMUNICATIONS

The following miscellaneous communication (Misc. Com. No. 6) was received by the Clerk was placed on file:

Misc. Com. No. 6, from the Environmental Council transmitting their Annual Report, Environmental Report Card 2001.

INTRODUCTIONS

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

Representative Meyer introduced personnel from the Navy Regional Security Hawaii Pearl Harbor Base: Staff Sergeant Steven Alverson, Officer in Charge; Sergeant Samuel Hart; Petty Officer Joe McQuiggan; Petty Officer Edward Overaker; and Petty Officer Alex Roelofs. They were accompanied by her office manager, Mr. Chris White.

Representative Leong introduced Ms. Faith Loudon, a Republican State Central Committee Member from Pasadena, Maryland; Mr. and Mrs. William Spencer of Ipswich, Massachusetts; and Mr. Bob and Mrs. Jean Small. They were accompanied by her office manager, Ms. Roberta Weatherford.

At 12:31 o'clock p.m., Representative Lee requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:32 o'clock p.m.

ORDER OF THE DAY

COMMITTEE REASSIGNMENTS

The following concurrent resolution (H.C.R. No. 33) was referred to committee by the Speaker:

<u>H.C.R.</u> <u>No.</u>	<u>Re-referred to:</u>
33	Committee on Agriculture

STANDING COMMITTEE REPORTS

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 412-02) recommending that H.B. No. 2537, pass Second Reading and be placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2537, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

Representative Djou rose to a point of inquiry, stating:

"Mr. Speaker, did we move to suspend the rules of the House to consider these matters by consent calendar?"

The Chair responded, stating:

"We are on Second Reading."

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2537, entitled: "A BILL FOR AN ACT RELATING TO AQUATIC RESOURCES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Case, McDermott, Pendleton, Rath, Takai, Takamine, Thielen and Yoshinaga being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 413-02) recommending that H.B. No. 2832, as amended in HD 1, passed Second Reading and was placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2832, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TIME SHARING PLANS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Case, McDermott, Pendleton, Rath, Takai, Takamine, Thielen and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 414-02) recommending that H.B. No. 2613, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2613, entitled: "A BILL FOR AN ACT RELATING TO STATUTORY REVISION: AMENDING, REENACTING, OR REPEALING VARIOUS PROVISIONS OF THE HAWAII REVISED STATUTES AND THE SESSION LAWS OF HAWAII FOR THE PURPOSE OF CORRECTING ERRORS AND REFERENCES, CLARIFYING LANGUAGE, AND DELETING OBSOLETE OR UNNECESSARY PROVISIONS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Case, McDermott, Pendleton, Rath, Takai, Takamine, Thielen and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 415-02) recommending that H.B. No. 2298, as amended in HD 1, passed Second Reading and was placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2298, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Case, McDermott, Pendleton, Rath, Takai, Takamine, Thielen and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No.

416-02) recommending that H.B. No. 2387, as amended in HD 1, passed Second Reading and was placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2387, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PENAL CODE," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Case, McDermott, Pendleton, Rath, Takai, Takamine, Thielen and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 417-02) recommending that H.B. No. 2426, as amended in HD 1, passed Second Reading and was placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2426, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMES AGAINST CHILDREN," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Case, McDermott, Pendleton, Rath, Takai, Takamine, Thielen and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 418-02) recommending that H.B. No. 2427, as amended in HD 1, passed Second Reading and was placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2427, HD 1, entitled: "A BILL FOR AN ACT RELATING TO VICTIMS OF CRIMES," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Case, McDermott, Pendleton, Rath, Takai, Takamine, Thielen and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 419-02) recommending that H.B. No. 1864, as amended in HD 1, passed Second Reading and was placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1864, HD 1, entitled: "A BILL FOR AN ACT RELATING TO VISITATION," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Case, McDermott, Pendleton, Rath, Takai, Takamine, Thielen and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 420-02) recommending that H.B. No. 2307, as amended in HD 1, passed Second Reading and was placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2307, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRONIC TRANSACTIONS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Case, McDermott, Pendleton, Rath, Takai, Takamine, Thielen and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No.

421-02) recommending that H.B. No. 2844, as amended in HD 1, passed Second Reading and was placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2844, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"This bill embodies an extremely important provision for the history of honest and fair campaigning in Hawaii. That provision provides that those who do business with the State or the counties do not make contributions to the people who are awarding their contracts.

"The campaign spending commission Chair, Robert Watada, has for some time sought to have this provision put in law. He's correctly pointed out that most contractors would be delighted to be relieved of the, essentially, blackmail process they are put through whereby they have to contribute to the campaigns of people who award contracts in order to be considered in the running for those contracts. It is easier for the Legislature to take this step because it affects primarily the Executive Branch. Nevertheless, the Majority is to be highly complimented for coming around to the view that this is serious campaign reform. The Republicans have been asking for this change for some time and I just want to express my real appreciation that the Majority has gone along with this view. It will be a real step forward for clean campaigning in Hawaii."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2844, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAMPAIGN SPENDING," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Case, McDermott, Pendleton, Rath, Takai, Takamine, Thielen and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 422-02) recommending that H.B. No. 1823, as amended in HD 1, passed Second Reading and was placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1823, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1823, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT SERVICES," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Case, McDermott, Pendleton, Rath, Takai, Takamine, Thielen and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 423-02) recommending that H.B. No. 2821, as amended in HD 1, passed Second Reading and was placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2821, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE DEPARTMENTS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Case, McDermott, Pendleton, Rath, Takai, Takamine, Thielen and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 424-02) recommending that H.B. No. 2726, as amended in HD 1, passed Second Reading and was placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2726, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"I would like to express reservations because I wanted to read this bill over the recess period. I am not clear how our mission in government is changing and what efficiencies have been quantified from these changes. 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. 2726, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE REORGANIZATION OF STATE GOVERNMENT," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Case, McDermott, Pendleton, Rath, Takai, Takamine, Thielen and Yoshinaga being excused.

At 12:37 o'clock p.m., Representative Lee requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:48 o'clock p.m.

SUSPENSION OF RULES

On motion by Representative Lee, seconded by Representative Djou and carried, the rules were suspended for the purpose of considering a bill on Third Reading on the basis of a modified consent calendar. (Representatives Case, McDermott, Pendleton, Rath, Takai, Takamine, Thielen, Whalen and Yoshinaga were excused.)

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 425-02) recommending that H.B. No. 1726, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1726, entitled: "A BILL FOR AN ACT RELATING TO DRIVER'S LICENSE INSTRUCTION PERMIT," passed Third Reading by a vote of 42 ayes, with Representatives Case, McDermott, Pendleton, Rath, Souki, Takai, Takamine, Whalen and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 426-02) recommending that H.B. No. 1746, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1746, HD 1, entitled: "A BILL FOR

AN ACT RELATING TO UNATTENDED VEHICLES," passed Third Reading by a vote of 42 ayes, with Representatives Case, McDermott, Pendleton, Rath, Souki, Takai, Takamine, Whalen and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 427-02) recommending that H.B. No. 2509, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2509, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PARKING FOR PERSONS WITH DISABILITIES," passed Third Reading by a vote of 42 ayes, with Representatives Case, McDermott, Pendleton, Rath, Souki, Takai, Takamine, Whalen and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 428-02) recommending that H.B. No. 2848, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2848, HD 1, pass Third Reading, seconded by Representative Lee.

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

Representative Ito's written remarks are as follows:

"Mr. Speaker, I rise to speak in support of H.B. No. 2848, H.D. 1.

"This bill proposes to amend the State Constitution to allow the State to issue special purpose revenue bonds and use the proceeds from the bonds to assist private schools, including elementary schools, secondary schools, colleges, and universities.

"There are concerns that this bill essentially allows the State to subsidize private schools. This is not correct. This bill will merely allow private schools to take advantage of the lower interest rates they can get by financing their repair and construction needs through special purpose revenue bonds. These bonds are not like other types of bonds since they are not backed by the 'full faith and credit' of the State. Therefore, the State is not liable for special purpose revenue bonds, and will not have to back them up if a school defaults on a project financed through these bonds. Therefore, there is little potential financial impact on the State if this bill passes.

"Others of you may be concerned simply because you feel that we should not be helping private schools at all, and should be concentrating our efforts on public schools. While I definitely agree that our efforts should be focused on public schools, I also believe that the State should take all necessary action to ensure that every student in the State be provided with the best possible education. I feel that everyone in Hawaii deserves a good education, regardless of where they go to school, and I don't see why we shouldn't do everything within our means as legislators to accomplish that.

"I also get the impression from some people that they think all private schools are overflowing with money and don't need any help. This just isn't true. Most of the private schools in Hawaii are small schools, with very limited financial resources. These schools are dependent on tuition revenues just to get by every year, and have an extremely difficult time with financing construction and renovation projects. This bill would go a long

way toward helping these schools create an environment that is much more conducive to learning for their students.

"There were also concerns raised during Committee hearings about the language in this bill, and whether or not it covers both sectarian and nonsectarian schools. The bill has been amended to clarify that it does cover both of these types of schools, but I would like to note that when this bill was drafted, the language was intentionally written to be broad so as to cover all types of private schools. It was not our intention at all to exclude any private schools from this bill.

"In conclusion, I would just like to remind my colleagues that while it is the State's responsibility to provide a system of public education, it is also our responsibility to do everything within our power to develop the future leaders of this State. If we take the attitude that once a student decides to go to a private school, that student is no longer our concern, we are only shortchanging ourselves, and the rest of the people of Hawaii.

"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. 2848, HD 1, entitled: "A BILL FOR AN ACT PROPOSING AMENDMENTS TO ARTICLE VII, SECTION 12, AND ARTICLE X, SECTION 1, OF THE CONSTITUTION OF THE STATE OF HAWAII TO AUTHORIZE THE STATE TO ISSUE SPECIAL PURPOSE REVENUE BONDS AND USE THE PROCEEDS FROM THE BONDS TO ASSIST NOT-FOR-PROFIT PRIVATE ELEMENTARY SCHOOLS, SECONDARY SCHOOLS, COLLEGES, AND UNIVERSITIES," passed Third Reading by a vote of 42 ayes, with Representatives Case, McDermott, Pendleton, Rath, Souki, Takai, Takamine, Whalen and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 429-02) recommending that H.B. No. 2014, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2014, HD 1, pass Third Reading, seconded by Representative Lee.

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

Representative Arakaki's written remarks are as follows:

"These remarks are in support of HB 2014, SCR 429. Thank you Finance Committee, for passing out this bill for Third Reading.

"This measure will help to restate the goal of charter schools as an avenue for educational reform as defined in the "New Century Charter Schools," law passed in 1999, that defined charter schools as schools that utilize an alternate educational framework and are governed by an independent governing board. There is growing national and State interest in charter schools because they provide a truly flexible, self-defining alternative for public school reform, and allow students, teachers, and administrators the opportunity for innovation and increased autonomy to achieve their academic goals. For existing schools, especially for those in less affluent communities, this process is difficult to follow and the provisions of the school are not adequately identified. Hawaii is in need of a comprehensive charter school strategy which will explicitly detail a process that will enable and allow existing

schools to meet the educational demands of the twenty-first century -- to become New Century Charter Schools.

"This measure is intended to expedite the process for the creation of a charter school for existing schools. By working with current charter school officials, the Department of Education, the Office of the Governor, and employee representatives, we can create a process that is definitely a step towards complete educational reform in this State.

"This measure will help to nurture the ideal of more autonomous and flexible decision-making at the school level. The concept provides a new approach to education that is free of bureaucratic red tape and accommodating of the individual needs of students. It has the potential to dramatically improve our educational standards for the twenty-first century. Existing public schools, especially those that have floundered in the mainstream of public education, should be established as charter schools as a means for reform and re-birth.

"I urge all my colleagues to support this important educational reform measure."

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

Representative Ito's written remarks are as follows:

"Mr. Speaker, I rise in strong support of this measure.

"Mr. Speaker, this bill stands out as one of the greatest bills I have seen in my four years as Chair of Education. It expands the possibilities of existing charter legislation to allow for long-term, long-range partnerships between the State of Hawai'i and nonprofit organizations to add value to our public schools.

"Mr. Speaker, as an example of this relationship, the House and Senate Chairs on Education have approached the Chief Executive Officer of the Kamehameha Schools, Dr. Hamilton McCubbin, to discuss the possibility of working closely with the Kamehameha Schools in the management of conversion charter schools in areas with a high percentage of indigenous Native Hawaiian youth. Once the conversion charter school statute is passed, Kamehameha Schools would assist in establishing a separate and independent non-profit, tax-exempt organization, which would manage and operate conversion charter schools. As the bill stands, Kamehameha Schools would have minority representation on the Board of the nonprofit entity. However, the majority of the Board of Directors would be comprised of representatives of the community, the BOE, and the DOE, which would serve as the governing entity for each of the conversion charter schools. Mr. Speaker, this would ensure consistency in all of the conversion charter schools operated by the nonprofit entity in areas such as student performance standards, curriculum design, hiring and employment policies, faculty and staff accountability standards, fiscal management system, and many other design components.

"We know that many of our Native Hawaiian youth are in most dire need of our *kokua*, and this bill would facilitate Kamehameha's ability to carry out an important and exciting initiative to extend the reach of the legacy of Bernice Pauahi Bishop to more people of Hawaiian ancestry, as well as all the children of Hawaii.

"Mr. Speaker, this bill allows for a nonprofit entity, such as a new nonprofit entity like Kamehameha Schools to work with communities to convert DOE schools into charter schools, using a democratic, community-based process, so that additional resources can be directed into those campuses.

"This bill mandates that the nonprofit entity must contribute a minimum of 25% of the DOE allocation. Therefore, these schools would receive 125% of their standard allocation. Moreover, we have been pleased to hear from Kamehameha Schools, that other private foundations and donors are interested in contributing additional resources to this partnership.

"Members, this bill preserves the right of employees to collective bargaining under Chapter 89, such as currently preserved in charter school statutes. Students, teachers, educational officers, and all school staff will benefit from this arrangement.

"Mr. Speaker, through collaborations with the DOE, the BOE, and other private sector foundations, this bill recognizes at its very foundation and essence that all parties have strengths and capabilities which when operating together can make a positive and substantial difference in the way we shape future generations of the people of the State through education. I urge the members to pass this bill as amended in Committee. Mahalo, 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. 2014, HD 1, entitled: "A BILL FOR AN ACT RELATING TO NEW CENTURY CONVERSION CHARTER SCHOOLS," passed Third Reading by a vote of 42 ayes, with Representatives Case, McDermott, Pendleton, Rath, Souki, Takai, Takamine, Whalen and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 430-02) recommending that H.B. No. 2192, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2192, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TOURISM AUTHORITY," passed Third Reading by a vote of 42 ayes, with Representatives Case, McDermott, Pendleton, Rath, Souki, Takai, Takamine, Whalen and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 431-02) recommending that H.B. No. 2451, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2451, pass Third Reading, seconded by Representative Lee.

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

"Mr. Speaker, as usual I have often complained about the use of special funds, and that too much of a 'shell game' goes on with the use of our budget and that is why I am standing with reservations on this matter. 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. 2451, entitled: "A BILL FOR AN ACT RELATING TO THE CONVENTION CENTER," passed Third Reading by a vote of 41 ayes to 1 no, with Representative Meyer voting no, and Representatives Case, McDermott, Pendleton, Rath, Souki, Takai, Takamine, Whalen and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 432-02) recommending that H.B. No. 2609, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2609, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Mr. Speaker, again, I have problems with special funds also. In this case, I think the State parks could benefit from some of this money from the Tourism Special Fund. I think that there is some kind of nexus between tourism and our parks. I wish that we could know exactly which parks our tourists frequent and maybe give some special emphasis to those out of this Tourism Special Fund.

"The other problem that I have is that if we really think we ought to improve these special parks, I think that it ought to come from the general fund."

Representative Meyer rose to a point of inquiry, stating:

"I was surprised to see it on the Order of the Day for Third Reading since normally we have 48-hours notice. This was just heard in Finance last night and so it sort of took me by surprise, that it is here for Third Reading. I am asking, why."

The Chair responded, stating:

"There was no amendment to the H.D. 1. That's why it is up for Third Reading this afternoon. If there is was a proposed amendment, such as a H.D. 2, then it would have to meet the requirements of the 48 hours."

Representative Meyer continued in opposition to the measure, stating:

"Well, I was working on an amendment but because it appeared today, there was no time to get it out to all the colleagues here in the Chamber, so I was surprised at that. It is not a big point.

"I will be voting no on this bill as it is presently drafted. I think we all know that the Tourism Authority was looking for permanent financing through the legislation passed in '98 and the TAT tax being raised. We provided that, so they have certainty.

"Like so many special funds, everybody has their eyes on it and is trying to figure out how to do something different with it. It looks like this very tempting pool of money. In the Committee hearing, there was a representative from the Hawaii Tourism Authority. I don't think any of the people involved in that organization deny the fact that our State parks are a very valuable resources and tourists enjoy them as much as we do, as residents.

"The problem that I have with this bill is that it simply just dictates that we'll take this money, not more than \$2 million over whatever is left, after I think we were talking about \$61 million, to be reserved for the Hawaii Tourism Authority. That is what it says now, but once you establish this, we'll raise that money down the road. You know we will up that amount from \$2 million.

"The Hawaii Tourism Authority the folks that are working diligently there, it is not that they are against helping to upgrade our parks, but they would like to have some say in it.

"The amendment that my office worked on would have them working in consultation with DLNR. It also seems not appropriate, if we need money for repair or new facilities, that

is one thing. But the bill as drafted, now will use this money to pay for permanent and temporary staff. Operation and maintenance costs I don't have a problem with that. But the permanent and temporary staff. You've got a pool of money and now you are going to feel free to hire a lot more people than we have there now.

"Because this Tourism Special Fund was created to help the tourist industry, I think they should have some say in this and work in concert with the Department. There is no permissive language in this bill as it is written now. It is all, 'shall.' It is going to happen. We're taking the money and we'll use it as we see fit. Given the economy now and how the tourism industry is suffering, I think the timing stinks actually, and I would like to see some very material changes in this bill. Then I can support it. Thank you Mr. Speaker."

Representative Fox rose to speak in opposition to the measure and asked that the remarks of Representative Meyer be inserted in the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Fox continued, stating:

"Basically, just to reiterate. I was around, as were you Mr. Speaker, when this Fund was created. The Fund was set up to give the Tourism Authority the power that it needed to make marketing decisions in its own regard. It is perfectly appropriate for the Tourism Authority to set aside \$2 million for parks if it believes that is an appropriate use of those funds and it would enhance tourism for Hawaii. It is very wrong of this Body to go back on the arrangement that we set up.

"So we should get our fingers out of the business of micromanaging tourism and allow the professionals to do that job. We can second guess from the sideline, complain about some of the decisions they make, but we ought to let the operation be handled by them. I would think that this Body would be well-advised to return to that way of dealing with this money. Thank you."

Representative Souki rose to speak in opposition to the measure and asked that the remarks of Representative Fox be inserted in the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Souki continued, stating:

"Yes Mr. Speaker, I wish to vote against this with strong reservations. I think you are well aware of how I feel about this. We've provided the tourist tax so that we would have as little interference as possible so that we would not tamper with the Tourism Fund. This is the most important industry that we have. It seems like we are going back to the days of past when we are looking at this nice bundle of money that we can use towards our special interest.

"Another concern I have, and I certainly don't mind, as the previous Representative stated, that if it is used for parks, that is fine. We need to enhance our parks. But it should not be on a permanent and annual basis. It should be as needed. This is my major complaint with this bill. Thank you very much Mr. Speaker."

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

"Mr. Speaker, I have no opposition to the underlying substance of what this bill is trying to do, which is add additional funding to repair and restore our State parks. It is a good intent. My opposition is entirely based upon the funding mechanism contained in this bill.

"Mr. Speaker, my opposition has been articulated quite clearly by the Representative from Kahaluu and the Speaker Emeritus. I would just like to add that one of the reasons I ran for public office in the first place, was that I felt our State government, quite often and too frequently, breaks its promise. We originally created the Tourism Special Fund because tourism marketing needed a consistent source of revenue and income to market the State of Hawaii.

"We cannot go back on our word now and just use this as our own 'honey pot' and raid it for any reason that we would desire, no matter how good, such as for this particular program. Mr. Speaker, I would submit to you that part of the reason, or a large part of the reason, why the people do not trust the government, or they do not trust politicians is, because we do things like this contained in this particular measure. For these reasons, I am voting against this bill. Thank you."

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

"Mr. Speaker, I stand in strong support of this bill. As I understand it, what this bill does is it takes a look at the 37.9%, which is proportionately divided from the TAT under HRS section 237D-6.5. There, when we look at the Special Fund, what it does is appropriates no more than \$2 million after the appropriation that is given to HTA.

"People have mentioned the \$61 million. As I seem to understand it, and as what was confirmed in the hearing, the \$61 million is just generally the cap that the HTA asked for. That was the request that they came in with. Even though there is more money than \$61 million, or in the past there has been more than \$61 million, in the Special Fund. So really that is our job, as part of the Legislature, to look at what the HTA's appropriations and spending are going to be and if they justify the full \$61 million, then yes, we can give it to them. But as we seem to have recalled, there was an HTA audit that was recently performed by the Auditor's Office and one of her conclusions, which I found very interesting, was that she said there was about \$144 million which she estimated was misspent. Whether that's true or whether that's false, I think that is something for another committee to decide.

"What that does for me is it raises the question of whether they have been properly spending all of the millions of dollars we have been giving them. If they haven't been, then the question becomes, what other better purpose is there? People have already stated that they agree. The tourists come here for the parks. A lot of them come to see what Hawaii is about. A lot of that has to do with some of the parks that we have. Really, when that question has been answered, then you need to look at what impact does the tourist industry have upon our State parks?

"I am not sure if people have received this or taken a look at it, but in the last Session, under, I think, H.B. 694, there was a memorandum of record that was submitted to the Committees dated December 1, 2000, by a Ralston H. Nagata, Administrator for the Hawaii State Parks System. In this memorandum, which is pretty lengthy, it goes through every single State park that we have here in our State and it estimates how many visitors go through there in one year, and it apportions the number of visitors versus the number of residents. Based on that, it goes to a cost estimate on the upkeep versus maintenance, versus improvement. And based on all of this data, they come to the conclusion that out of an estimated \$6 million that they need for total operating and construction improvement projects, they estimate that \$3.479 million can be specifically attributed tourist.

"Now given that we have \$3.5 million per year that can be specifically attributed to the tourism industry, based off of this memorandum, I see no problem giving them \$2 million. I think especially when we look at what the tourists come here for. They come here for an experience, and when they have to go to Diamond Head Park and they have to stand in line for an hour because our facilities are really poor, there are only two toilets and the women are standing in line for basically an hour, waiting to use the bathroom, that is really a poor experience to me. That is the kind of indicator that we are giving to them. We will draw you in with all our money. We will market to you with millions of dollars, but yet once you get here, well, you get the experience you get. That is not the kind of experience that we should be providing to them.

"When I talked to the HTA, I asked them, if they have this kind of data, what is the problem? Why can't they just admit that maybe, yes, there is some appropriation that should possibly go to State parks. Essentially what their response was, that they never received that data. It was very frustrating for me to be in the hearing, because this memorandum actually wasn't even provided under this bill, in this Session. It was provided in last Session, and it was something that I had to dig up and find. Once they found it, and once they saw it, the two parties said, 'Oh yes, we'll get together and we'll exchange more information.'

"So you know, I think that really, what this bill does is, it furthers the discussion for the Department and the HTA to really interact a little bit better, so that they can get the proper information. And once it is properly documented, as this seems to do, then I think there should be no problem. Thank you very much."

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

Representative Kanoho continued, stating:

Mr. Speaker, I am in strong support. We all would like nothing more than to have maintenance of our public parks funded by general funds. The fact of the matter is, it will not be available if there are no funds. We do what we have to do, as fiduciaries, to accomplish our fiduciary responsibility. If it is to take the excess amount from the Tourism Special Fund, I think it is an appropriate thing to do.

"Just a quick note on special funds, Mr. Speaker. I do agree, generically, that we should put all of our money, perhaps, in general funds. But, the special funds do provide a degree of accountability that we need. Secondly a lot of our special funds require the setting up of a special account because much of the funds that we receive from the federal government or from private sources require that these special contributions or these special allocations be so identified. There really is no way that we could dispense with our special funds. Thank you Mr. Speaker."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2609, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE PARKS," passed Third Reading by a vote of 35 ayes to 7 noes, with Representatives Davis, Djou, Fox, Halford, Meyer, Ontai and Stonebraker voting no, and with Representatives Case,

McDermott, Pendleton, Rath, Souki, Takai, Takamine, Whalen and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 433-02) recommending that H.B. No. 2834, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2834, pass Third Reading, seconded by Representative Lee.

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

"I commend the Majority for keeping this conversation going, and this particular bill moving forward for the purposes of conversation. However ultimately, I hope that this particular measure does not pass. It is in an unamended form, which suggests to me that there are several people that have yet to come forward, and to have their concerns heard and addressed in this bill.

"In addition, I am very concerned about the proposed funding for this, which as I understand it, would come in the form of the rebates that this may generate. I think that is basically a dubious proposition and that over time, it is going to cost us a lot more than what the rebates, if they come through, will provide.

"I am also concerned because I don't recall hearing any testimony in favor of this by the Department of Human Services, which is the agency that would be administering this program. So for those reasons I am voting no on this."

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

"Thank you Mr. Speaker. I think on Second Reading, I raised some of my reservations. I will vote for this since this has a very good intent of offering lower prices. But I just wanted to again express further reservations. I think on Second Reading I did say that I felt this was the State getting into a business. I questioned the availability of all the drugs that might be offered. I didn't know the effect on private drug insurance companies, and whether there would be a drop in membership or whether people would be picking up dual memberships.

"Today I would just like to raise questions regarding the cost of this program to the State. I think it would take quite a few personnel, a bureaucracy, to handle this statewide program. I don't know whether it would handle any drugs, but there are costs for transporting and security. There is also the problem of trying to determine the population, who is applying for this program at 300% of the federal poverty level. I think that would take quite a few people to determine this. That level is also a moving target.

"This bureaucracy will also fix the price of the drugs, and they will be considering the rebates, the costs, the fees and the overhead. There will also be a need for some funds to promote use of these generic drugs, besides trying to educate the population on the benefits of this program and promoting the entire program, and then issuing membership cards. Because of these questions in my mind, I just don't know how much this will cost and what this program will entail.

"I think there might be massive auditing cost because you would have it to determine manufacturers rebates and retailers rebates. Everyone knows that auditors are not cheap. So for many of these reasons, and until all these questions are

answered, I will continue to vote for this program, but have several great reservations about it. Thank you."

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

"Thank you Mr. Speaker. Many of my reservations have already been noted, but this measure is directly interfering with business, and I don't think that is always the right thing to do. It grows government. It creates new special funds. It has other reporting requirements for the drug manufacturers. I am afraid that this will actually raise the costs of drugs. It also may be that we might get cheap generics, but we don't get the latest and the greatest drugs. I am afraid that sometimes, regulations backfire. I do acknowledge that we do need to do something about the cost of drugs, but I am not sure if this it. Thank you Mr. Speaker."

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

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

"Thank you Mr. Speaker. I can't add any more than my colleagues have all ready stated, and for those same reasons, I have to vote with reservations."

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

"Thank you Mr. Speaker. I stand in support of the bill. We discussed this bill at length on Second Reading, but now I can see it is rearing its pretty head once again. I'd just like to comment on some of the questions that were raised by the previous speakers. First and foremost, I want to emphasize it as much as I can, that we should all read the bill. Again, as I stated on Second Reading, this bill is completely, absolutely, totally, unequivocally, quintessentially, voluntary. I don't know how else to say it. I have to repeat that it is voluntary.

"So here is how it works. Let me try to do it as simply as I can, because there are a number of moving parts. Let me try to explain it. What this bill does is create the Hawaii Rx Program, which is a discount program in which the State would then engage with the 350 drug manufacturers across the country, write them all a nice letter and say, 'We have 228,000 uninsured residents in our State. We are going to enroll them into a program that is called the Hawaii Rx Program and these consumers want to buy drugs from you.'

"So we go to Schering-Plough and we say, 'Hey, we know you sell Claritin. Now with 228,000 people in our pool, we can assure you we will be buying Claritin in bulk. What kind of price can you give us?' Again as I said on Second Reading, there is absolutely no difference in us doing this in the same way HMSA and Kaiser does it for their drugs, or Costco, Sam's Club, and Wal-Mart do for all their products. In fact, every retailer out there buys their products, and the more they buy, the bigger discount they get.

"About transport and security. A concern was raised about that. There is no transport and security. The example I can use is the Medicaid program in the State. We provide \$85 million worth of prescription drugs for people on Medicaid in our State. If you'll notice, a Medicaid patient does not go to the Department of Health to pickup their drugs. They don't go to the Department of Human Services to pick up their drugs. They don't come to our offices to pick up their drugs. Where do they get their drugs? They get it from the pharmacist and

that is where the transport and security lies, with the pharmacist. This program would be no different. The consumer would go to the drug store and get their drugs, so there is no transport and security problem.

"It does not affect existing drug plans one iota, and that is why you don't have Kaiser and HMSA and any other health management organization coming in and opposing this bill. It does not affect what they are doing at all. It does not fix the price of drugs, and I don't know where we got fixed on that. Simply put, we would negotiate whatever price is negotiated, and then of course, it becomes fixed, because there would be a contract. Instead of selling Claritin for a \$105, you are going to sell it to me for \$70. We fix the price. We agree on that with a handshake and a signature, and off we go. That is not fixing the price of drugs to the detriment of the manufacturers, it is an agreement between two parties.

"It directly interferes in business. Now that one baffles me. It doesn't interfere in business any more than, again, what any company does when they negotiate a price for their product or their service. If that is interfering with business, then I guess every business transaction, by that definition, is interfering.

"Another concern that was raised previously was we should let the drugs be decided by the free market. Again, I know some people have said that, 'This is well intentioned and we should do something, but this is not the vehicle to do something. But I don't have any other idea of what to do, so in the end, let's do nothing, even though we know it is a problem.' I don't know if Aristotle is turning over in his grave with that kind of logic.

"The fact is there is a problem. The fact is there are 228,000 people in our community who live in each and every one of our districts. I'd be surprised if you represent a district where there are no uninsured residents. I would consider you lucky. The fact is that, I know in my district there are many uninsured residents.

"So let's take the free market. Drug prices, during the period from January 1996 to January 2001, 27 of the top 36 selling drugs on the market rose in price at least five times. Claritin, for example, an antihistamine, and my favorite target by the way, rose in price five times. Now think about it. It rose an average of once or twice every ..."

Representative Fox rose to yield his time, and the Chair "so ordered."

Representative Takumi continued, stating:

"I was going to give the 'Fruit of the Loom' version – brief. But obviously, this issue has really raised a lot of confusion and I wanted to try to clarify that confusion.

"So Claritin rose in price nine times, when in fact, the manufacturer already recouped its original research and development costs many times over, so it was pure profit. So it begs the question of why they had to raise their price of their drugs.

"Secondly, there is a federal law on the books called 'pediatric testing.' If a drug manufacture comes in and says that they want to offer this drug now, Claritin, to young people, and by doing so, they need additional testing. Well that extends their patent by six months. There are many cases I can give you.

"A couple of examples: Schering-Plough with Claritin. When they did this, they gave them an additional six months, and by the way, Claritin is going to go off-patent in December

of this year, and they reaped an additional \$975 million in revenue. It begs the question, Mr. Speaker. You have a 20-year patent on drugs. Schering-Plough knew well in advance that their patent was going to end, but then they applied for this extension on their patent to test on children, just at the time their patent was going to expire. They could have applied to test on children 2 years ago, 3 years ago. What is the point? The point is then they wouldn't get the patent extension. I don't blame Schering-Plough that is the law there are able to do that.

"When people talk about the free market, it is not a free market. Generics, there are many examples, and again in interest of time, I won't go over the many examples of where drug manufacturers will use every legal means possible to stop generics from entering the market. One example, Zenith Goldline Pharmaceutical and Abbott Laboratory. Abbott manufactures Hytrin, which gives them about \$500 million a year. That is for high blood pressure. Zenith Goldline pharmaceuticals wanted to provide the generic. Abbott filed a lawsuit and it took approximately a year and a half for the generic to finally enter the market. The legal cost, obviously, for Abbott, was minimal because they made an additional \$800 million by stalling it. So, the free market, I am all for the free market, and in fact the very essence of this bill is the free market by being able to participate, negotiate, buy in bulk, and pass on those savings to the consumers. Thank you Mr. Speaker."

Representative Moses rose to respond, stating:

"Thank you. This is my second time Mr. Speaker. I dearly love my neighbor and colleague so I am not directing any of this towards him. But my concerns come from some of the wording in the bill. I talked about the onerous effects. Basically I think there is some blackmail in this bill. We make an agreement that, 'Any prescription drug manufacturer that sells prescription drugs in the state may enter into a rebate agreement with the department for the prescription drug access program.' 'May,' that is very good. 'The rebate agreement shall require the manufacture to make rebate payments to the state each calendar quarter, or according to a schedule established by the department.' If they don't like it, then what do they do?

""Nonparticipating manufacturers. If the department and a drug manufacturer fail to reach agreement on the terms of a rebate, the department shall: ..." That sounds like binding arbitration. "The department shall: (1) prompt a review of whether to place that manufacture's product on the prior authorization or formularies for any other state-funded prescription drug program in accordance with this chapter; ..." So it affects all other programs if they don't reach an agreement that the State likes. And second, it will, "Take similar actions involving prior authorization or formularies for any other state-funded drug program."

""The department shall adopt rules creating clear procedures for the implementation of this section. The department may release the names of manufactures that do not enter into rebate agreements. This information shall be deemed public information. The department may also publicize to doctors, pharmacists, and other health professionals information about the relative costs of drugs produced by manufacturers that enter into rebated agreements, compare to those that do not enter into rebate agreements." The State is forcing these people to enter into an agreement that the State deems appropriate, otherwise they get penalized. That is my objection to this bill."

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

Representative Hiraki's written remarks are as follows:

"Mr. Speaker, I rise to speak in favor of this measure.

"This is the first of several measures this session, introduced on behalf of the public who need this Legislature to fight for fair pricing of essential goods and services.

"This first measure, HB 2834, will help to provide relief to the estimated 200,000 people of our State who do not have drug insurance and therefore must pay full retail prices for prescription drugs.

"Let's look at the facts when evaluating this measure. According to the AARP (American Association of Retired Persons):

Drug price inflation exceeds the general inflation rate. Between 1995 and 2000, prescription drug prices rose at over 1.5 times the rate of general inflation.

Prescription drug spending is rising rapidly. Prescription drug spending per American rose at an average annual rate of 9.4 percent between 1990 and 1999. Between 2000 and 2010, prescription drug spending per American is expected to rise at an average rate of 11.2 percent per year.

Prescription drugs account for the single largest component of older Medicare beneficiaries' out-of-pocket spending.

"Research released by the Henry J. Kaiser Family Foundation:

Profits as a percent of revenues for the Rx industry have been more than four times the median rate for all Fortune 500 firms in the late 1990s.

"Because of escalating costs of prescription drugs, AARP-HI has made this issue their number one priority issue for this session!

"This bill, Mr. Speaker, will allow the State to set up the Hawaii Prescription Drug Discount Plan for those without drug coverage. In essence, the State will act as a conduit to 'pool' those without drug coverage into a form of a buyers club for the purpose of negotiating discounted bulk purchasing prices from drug manufacturers.

"Because of their large member pool, Kaiser and HMSA negotiates about a 30 to 40 percent discount on drugs for their members. By passing this measure, we are hope for similar savings for anyone interested in joining the Hawaii Prescription Drug Plan.

"Passing legislation to establish the Hawaii Rx Drug Plan is the right thing to do, because it gets prescription drugs into the hands of the people who need them at costs they can afford.

"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. 2834, entitled: "A BILL FOR AN ACT RELATING TO PRESCRIPTION DRUGS," passed Third Reading by a vote of 39 ayes to 3 noes, with Representatives Djou, Gomes and Ontai voting no, and with Representatives Case, McDermott, Pendleton, Rath, Souki, Takai, Takamine, Whalen and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 434-02) recommending that H.B. No. 2805, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2805, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," passed Third Reading by a vote of 38 ayes to 4 noes, with Representatives Djou, Gomes, Meyer and Ontai voting no, and with Representatives Case, McDermott, Pendleton, Rath, Souki, Takai, Takamine, Whalen and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 435-02) recommending that H.B. No. 1761, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1761, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Mr. Speaker, I think many members of this Chamber know that I believe in limited government. My philosophy is that, where possible, government should not try to interfere with the marketplace.

"This bill represents a movement of our government in the wrong direction, in my opinion. It expands the reach of government to regulate healthcare. It is not the direction that I want to see our State headed in. I am concerned that other states have tried to do this, namely Idaho and Washington, and met with disastrous results by adopting very similar legislation to this. I am also very concerned that already here in the State of Hawaii, we have a lot of regulation of health care. Indeed, we have the Prepaid Healthcare Act which has brought a lot of positive good to our State, but also many times, with its 'one size fits all' policy, I think, has begun, the 'one size fits all' healthcare insurance system here in our State.

"The solution and the remedy to these problems that this bill is trying to address is not by extending the reach of government, expanding government, and increasing the amount of regulation, but instead by going the opposite direction. What we should be doing is trying to bring in more competition here into the Hawaii market, into the healthcare industry. We can do that by offering the same tax exemption to for-profit health insurance companies, as we already extend to mutual benefit societies. So Mr. Speaker, I am standing in opposition to this bill because I don't believe it is taking our government in the right direction. In fact, it is going in the complete opposite, wrong direction, by increasing regulation, not decreasing it, and for these reasons, I stand in opposition. Thank you."

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

"Essentially, I agree with the previous speaker from Kaneohe. I think these regulatory efforts are all well-intended, but end up crushing the little guy in the long run. You have to look again, at all of our commodities markets and all the services that we regulate, and the high cost of all of them. We have to determine and look at how much regulation has actually hurt us more than helped us.

"Certainly we all agree that regulation plays a role in various capacities. I am certainly not one that favors a complete *laissez faire* marketplace, but be that as it may, we've got some 'humongous' cost drivers in place; one is known as the Prepaid Healthcare Act. Others that I know about are off the bill slightly, but include the divorce laws and other regulatory measures that are hurting us and not helping us. So for that reason, I am also against this bill. Thank you."

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

Representative Hiraki's written remarks are as follows:

"Mr. Speaker, This is another measure introduced on behalf of the public who need this Legislature to fight for fair pricing of essential goods and services.

"Our State has earned the nickname of 'Hawaii-opoly' because so many of our essential goods and services are delivered in a marketplace where there is little or no competition.

"The consumers of Hawaii have become accustomed to regulated monopolies, from our public utilities, which provide essential electricity, water, natural gas and telephone services.

"Alarming, to the detriment of Hawaii's consumers, we have a growing number of unregulated monopolies and oligopolies. We currently have one HMO health plan, one PPO health plan, and apparently, soon we will have only one interisland airline carrier. We are also finalizing the settlement terms of the State's price-fixing suit against the oil industry that charged that one company dictated the price of gasoline in Hawaii.

"This measure, HB 1761, allows the State Insurance Commissioner to oversee health insurance rates to ensure that rates are not excessive or discriminatory.

"Let me begin by stating that most of us have great faith in the marvel of a free, competitive market. A competitive marketplace efficiently allocates goods and services, thereby improving the welfare of the people. In such a vibrant, healthy environment, government's role must be limited. However, in markets where there is little or no competition, it becomes incumbent upon this legislative body to serve as a 'watchdog' to protect against companies using their unchallenged status to dictate unreasonable prices, terms, and conditions.

"Several years ago, this bill would have not been necessary. At that time, premiums were stable because numerous Health plans were in the market. Recently, Straub, Queens, PGMA, and Kapiolani Health were forced out of the health insurance market, leaving only one major PPO plan (controlling 73%), one HMO plan (controlling 21%) and other small companies making up the remaining 6%. Since these now-defunct companies left the marketplace, the two remaining major players have raised the premiums for small business by almost 20%, just over the past two years. Other businesses have been hit worse; for example, a hotel on Molokai was just informed that its premiums will be increased by 33%.

"And as reported in this morning paper, these rates to small business were increased during a time when the net income of the State's largest health insurance company, astoundingly, tripled its profits from the year before.

"I ask you, my colleagues, is that fair?"

"I do know that if we allow this trend to continue, the businesses that form the backbone of our economy, will be forced to close shop forever.

"What is being proposed in this bill should not be alarming because according to the Insurance Commissioner, 48 states in this nation, allow for some form of health insurance rate oversight.

"What is alarming is that we are the only state whose health insurance market is dominated by just one health insurance plan yet our people are defenseless against excessive pricing because we are one of only two states that does not provide any rate oversight.

"Members, the concept of rate oversight, as set forth in this bill, is nothing new. We provided this authority to the Insurance Commissioner for workers' compensation insurance in '95, automobile insurance in '97 and homeowners' insurance in '98. Despite the claims of its opponents, the sky didn't fall down. Instead, we saw average premium reductions of 40%, 35%, and 25% respectively. And these savings were refunded directly to the pocketbooks of our people.

"Simply put, for the opponents of this bill, if there is nothing to hide, there is nothing to fear. This bill is about premium disclosure and not rate regulation. Without this bill we will never have any information to know if rates charged are fair.

"Admittedly, Mr. Speaker, this issue is quite complex. But I am confident that this bill will benefit from further vigorous debate. So I have amended the bill by delaying the effective date to 2099 to allow this measure to continue on to Finance.

"I humbly ask that members support continued dialogue of this issue on behalf of the people of this state who deserve fair pricing of essential goods and services. Aloha."

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

Representative Yonamine's written remarks are as follows:

"I strongly support HB 1761, which gives the State Insurance Commissioner the authority to regulate health insurance rates to protect the public interest.

"HB 1761 is essentially a 'sunshine law,' designed to bring rate-setting policies into the light. It is only reasonable that the public be assured that the rates they are charged are not 'excessive, inadequate or unfairly discriminatory.' This will give the public confidence that the money that comes out of their pocket is being used responsibly to provide quality health care and maintain adequate reserves, and not to enrich the corporate executives.

"Are the premiums currently charged by health insurance companies reasonable for the services provided, and are they established through a fair and consistent process? Are the reserves and investment gains sufficient to maintain the long-term viability of the company, but not excessive? The answer is, we don't know. This is not an accusation against the insurance providers, but rather, an invitation to receive the public's confidence that their financial policies are just and reasonable.

"This bill protects the immediate public interest by making health insurance companies accountable for their establishment of premium rates. Thus, the public is assured that any changes in premium or coverage have been filed with the Insurance Commissioner, and are therefore economically justified due to inflation, rising health care costs, market fluctuations, or increase in other expenses.

"This bill protects the future public interest by letting the consumer know that policy mandates that the amounts maintained in reserve holdings by the insurance companies are sufficient to ensure the long-term viability and financial solvency of the company, but are not excessive. Excessive

reserve holdings suggest that lower premiums could be charged without jeopardizing the viability of the company.

"HB 1761 is not designed to lower the cost of insurance premiums.

"Some opponents of this bill argue that rate regulation will not result in lowering the cost of premiums. They also point out that Hawaii currently enjoys some of the lowest premium rate costs in the nation, and that our unique Prepaid Healthcare Act allows virtually every working individual in the State access to employer-sponsored health insurance. This is great for the people of Hawaii – nothing is broken, so what are we trying to fix? The answer to this is that the intent of HB 1761 is not, and never has been, to explicitly reduce or limit health insurance rates. What is 'broken,' is that the public has no idea how the insurance companies calculate or arrive at the rates that they charge, or how much money taken from the pocket of the consumer is being held in reserve or is generating investment gains for the insurance providers, while premium costs continue to rise.

"The intent of HB 1761 is simply to require health insurance companies to maintain reasonable rates, as determined by the Insurance Commissioner, and give the public justifiable reasons for changes in rates or coverage. Currently, health insurance providers have the freedom to accumulate unlimited money in reserve holdings and investment gains, while continuing to increase premium costs to the consumer, and claiming that they are losing money due to the rising costs of health care.

"The public has no assurance that the reserve holdings and investment gains that the insurance companies are accumulating are within reasonable limits to ensure the long-term viability of the company, and not excessive amounts that could be returned to the consumer in the form of lower premiums.

"Opponents also maintain that free-market competition alone should be enough to keep costs down, making implementation of government oversight unnecessary. However, what we are experiencing in Hawaii is not a free market system, but rather a system dominated by two players. Making public the rate-determination process, as well as filing intent to change any rates or coverage, encourages free-market competition, because it allows new sellers to enter the market on equal terms with already-established agencies.

"HB 1761 doesn't give the Insurance Commissioner the power to 'set' insurance rates.

"This bill has been misrepresented as a vehicle that gives the Insurance Commissioner the power to set or limit insurance rates subjectively, including the power to keep rates artificially low. In fact, HB 1761 does not allow the arbitrary setting or capping of rates, but rather, ensures that rates are derived according to established guidelines, and filed with the Insurance Commissioner. This means that rates will be regulated according to a formula designed to take into account market conditions, health care costs, investment gains, and long-term financial viability and solvency of the health insurance provider.

"The insurance providers are not unfairly restricted in the rates they set, because if there is a legitimate reason for a price increase, the Insurance Commissioner cannot deny the increase. This will not necessarily result in lower rates, but it will allow the public to understand where the rates come from, and be informed of how and when they may change. This bill is essential to protect the public interest."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1761, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 28 ayes to 14 noes, with Representatives Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, Meyer, Moses, Ontai, Stonebraker and Thielen voting no, and with Representatives Case, McDermott, Pendleton, Rath, Souki, Takai, Takamine, Whalen and Yoshinaga being excused.

The Chair directed the Clerk to note that H.B. No. 1726; 1746, HD 1; 2509, HD 1; 2848, HD 1; 2014, HD 1; 2192, HD 1; 2451; 2609, HD 1; 2834; 2805, HD 1; and 1761, HD 1 passed Third Reading at 1:26 o'clock p.m.

Representative Garcia, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 436-02), recommending that H.C.R. No. 27, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 27, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF DEFENSE TO CONDUCT A STUDY ON STATEWIDE EFFORTS TO PREVENT TERRORISM, THE STATE'S LEVEL OF PREPAREDNESS IN THE EVENT OF A TERRORIST ACT, AND THE TIMELINESS AND EFFECTIVENESS OF THE STATE'S EMERGENCY RESPONSE SYSTEM," was referred to the Committee on Finance with Representatives Case, McDermott, Pendleton, Rath, Souki, Takai, Takamine, Whalen and Yoshinaga being excused.

Representative Garcia, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 437-02) recommending that H.C.R. No. 25, be adopted.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 25, entitled: "HOUSE CONCURRENT RESOLUTION EXTENDING THE REPORTING DATE OF THE TASK FORCE TO IMPROVE THE EFFICIENCY OF LAW ENFORCEMENT AND PUBLIC SAFETY AGENCIES," was adopted with Representatives Case, McDermott, Pendleton, Rath, Souki, Takai, Takamine, Whalen and Yoshinaga being excused.

RECONSIDERATION OF ACTION TAKEN

At this time the Chair addressed the Body, stating:

"Members, at this time, please refer to your pink action sheets. Members, during the 2001 Session, specifically on May 1, 2001, the House passed S.B. No. 1058, SD 1, HD 1, CD 1 on Final Reading. On May 3rd, 2001 the Senate recommitted said measure back to the Conference Committee.

"For consistency of the House, since both Chambers must move in unison for items moved out of Conference Committee, I would now like to entertain a similar motion."

Representative M. Oshiro moved that the House reconsider its action taken on May 1, 2001 to passing S.B. No. 1058, SD 1, HD 1, CD 1 on Final Reading, and that said measure be recommitted back to the Committee on Conference, seconded by Representative Lee.

Representative Gomes rose to a point of inquiry, stating:

"If it is proper at this point, my concern is that, is this bill going to sunset into the future, or are we going to act on this to pass it out. I know our position last year was to pass it out, and I would like to see it passed out. I would like to see this become law. I am just concerned that it is going to die a quiet death and I don't want to see that."

The Chair responded, stating:

"It will not die a quiet death because the Senate recommitted it back to their Committee on Conference. The House is doing a similar step and that is why it is being recommitted back to the Conference Committee that is represented by our House conferees.

"Is there any further discussion? Please, if you have any questions on this recommittal back to the Conference Committee on S.B. No. 1058."

The motion was put to vote by the Chair and carried, the House reconsidered its action taken to pass S.B. No. 1058, SD 1, HD 1, CD 1 entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND," on Final Reading, and said measure was recommitted to the Committee on Conference with Representatives Case, McDermott, Pendleton, Rath, Souki, Takai, Takamine, Whalen and Yonamine being excused.

The Chair then announced:

"At this time Members, S.B. No. 1058, SD 1, HD 1, CD 1, is now in Conference Committee. The conferees on behalf of the House are Representatives Saiki and Suzuki as Co-Chairs, and Representative Rath as a member."

INTRODUCTION OF RESOLUTIONS

By unanimous consent, the following resolutions (H.R. No 21) and concurrent resolution (H.C.R. No. 38) were referred to Printing and further action was deferred:

H.R. No. 21, entitled: "HOUSE RESOLUTION OPPOSING THE PROPOSED MERGER BETWEEN HAWAIIAN AIRLINES, INC. AND ALOHA AIRLINES, INC.," was offered by Representative Hale.

H.C.R. No. 38, entitled: "HOUSE CONCURRENT RESOLUTION OPPOSING THE PROPOSED MERGER BETWEEN HAWAIIAN AIRLINES, INC. AND ALOHA AIRLINES, INC.," was offered by Representative Hale.

ANNOUNCEMENTS

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs requested a waiver of the 48-hour rule to hear H.B. 2818, Relating to Firearms, which it is a short form bill, and the Chair "so ordered."

Representative Hamakawa then announced that there would be a hearing for decision-making purposes this afternoon as soon as session is over, in Room 325, and the bill would be recommitted back to Committee for a full hearing on the substance of the measure.

Representative Hamakawa also requested a waiver of the 48-hour rule for H.B. No. 2825, proposing a constitutional amendment regarding impeachment. The bill would be added to the 2:00 p.m. agenda, tomorrow, and the Chair "so ordered."

Representative Garcia: "Mr. Speaker, as it is we are heading into a mandatory five day recess, I want to remind you and the members that your second New Aloha Economy Days is scheduled for next Tuesday morning from 8:30 to 11:00 at Dole Cannery Square. We will be featuring this time, Mr. Speaker, the motion picture and television industry.

"On that day, Mr. Speaker, we will be featuring a few trailers of movies that were shot here in Hawaii recently. We will be having a panel discussion with some of the key players in the industry, and we will have a special guest flying in who is one of the stars of a movie that was shot here in Hawaii, to discuss how we might play a role in trying to stimulate that industry.

"Mr. Speaker, there is also a controversy that has just come to my attention, which will be one of the panel discussions on that day, which might prove very fatal to the movie industry if not addressed. So for the members, breakfast will be served, and I promise some entertaining and thoughtful discussion on that day next Tuesday. Thank you."

At this time, Representative Lee moved to keep the Journal open until 12:00 midnight this legislative day for the purpose of receiving Standing Committee Reports and House Bills transmitted thereby, seconded by Representative Djou and carried. (Representatives Case, McDermott, Pendleton, Rath, Souki, Takai, Takamine, Whalen and Yonamine were excused.)

At 1:34 o'clock p.m., on motion by Representative Lee, seconded by Representative Djou and carried, the House of Representatives stood in recess until 12:00 noon, Thursday, February 28, 2002. (Representatives Case, McDermott, Pendleton, Rath, Souki, Takai, Takamine, Whalen and Yonamine were excused.)

STANDING COMMITTEE REPORTS

In accordance with the motion made, the following Standing Committee Reports (Stand. Com. Rep. Nos. 438 through 480) were received by the Clerk prior to 12:00 midnight this legislative day, and the following actions were taken:

Stand. Com. Rep. No. 438-02 (JHA), and H.B. No. 2818, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO FIREARMS," were placed on the calendar for recommittal to the Committee on Judiciary and Hawaiian Affairs and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 439-02 (AGR) and H.B. No. 1941, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," were placed on the calendar and scheduled for action on February 28, 2002 to pass Second Reading and to be subsequently placed on the calendar for Third Reading.

Stand. Com. Rep. No. 440-02 (AGR) and H.B. No. 2009, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," were placed on the calendar and scheduled for action on February 28, 2002 to pass Second Reading and to be subsequently placed on the calendar for Third Reading.

Stand. Com. Rep. No. 441-02 (CPC) and H.B. No. 2854, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO ACCOUNTANCY," were placed on the calendar and scheduled for action on February 28, 2002 to pass Second Reading and to be subsequently placed on the calendar for Third Reading.

Stand. Com. Rep. No. 442-02 (JHA) and H.B. No. 2305, as amended in HD 1, entitled: "A BILL FOR AN ACT

RELATING TO THE UNIFORM PROBATE CODE," were placed on the calendar and scheduled for action on February 28, 2002 to pass Second Reading and to be subsequently placed on the calendar for Third Reading.

Stand. Com. Rep. No. 443-02 (JHA) and H.B. No. 2304, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO JUROR PRIVACY" were placed on the calendar and scheduled for action on February 28, 2002 to pass Second Reading and to be subsequently placed on the calendar for Third Reading.

Stand. Com. Rep. No. 444-02 (JHA) and H.B. No. 2428, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGE VERIFICATION OF SEXUAL PERFORMERS," were placed on the calendar and scheduled for action on February 28, 2002 to pass Second Reading and to be subsequently placed on the calendar for Third Reading.

Stand. Com. Rep. No. 445-02 (JHA) and H.B. No. 2433, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD SUPPORT ENFORCEMENT," were placed on the calendar and scheduled for action on February 28, 2002 to pass Second Reading and to be subsequently placed on the calendar for Third Reading.

Stand. Com. Rep. No. 446-02 (JHA/CPC) and H.B. No. 2438, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO IDENTITY," were placed on the calendar and scheduled for action on February 28, 2002 to pass Second Reading and to be subsequently placed on the calendar for Third Reading.

Stand. Com. Rep. No. 447-02 (FIN) and H.B. No. 2459, entitled: "A BILL FOR AN ACT MAKING EMERGENCY APPROPRIATION FOR SOCIAL SECURITY/MEDICARE EXPENSES," were placed on the calendar and scheduled for action on February 28, 2002 to pass Second Reading and to be subsequently placed on the calendar for Third Reading.

Stand. Com. Rep. No. 448-02 (FIN) and H.B. No. 2501, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE APPROPRIATION FOR STATE EMPLOYEE BENEFIT PROGRAMS," were placed on the calendar and scheduled for action on February 28, 2002 to pass Second Reading and to be subsequently placed on the calendar for Third Reading.

Stand. Com. Rep. No. 449-02 (FIN) and H.B. No. 2568, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE COLLECTION OF TAXES," were placed on the calendar and scheduled for action on February 28, 2002 to pass Second Reading and to be subsequently placed on the calendar for Third Reading.

Stand. Com. Rep. No. 450-02 (FIN) and H.B. No. 2569, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CONFORMITY OF THE STATE TAX LAWS TO THE UNITED STATES CONSTITUTION," were placed on the calendar and scheduled for action on February 28, 2002 to pass Second Reading and to be subsequently placed on the calendar for Third Reading.

Stand. Com. Rep. No. 451-02 (JHA) and H.B. No. 2581, entitled: "A BILL FOR AN ACT RELATING TO COMMERCIAL DRIVER'S LICENSING," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 452-02 (JHA) and H.B. No. 1725, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO DRIVER LICENSE RENEWAL BY MAIL,"

were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 453-02 (JHA) and H.B. No. 1727, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO DRIVER'S LICENSE INSTRUCTION PERMIT RENEWAL," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 454-02 (JHA) and H.B. No. 1768, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO VEHICLE REGISTRATION," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 455-02 (JHA) and H.B. No. 2302, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE DRIVERS' LICENSES," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 456-02 (JHA) and H.B. No. 2582, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 457-02 (JHA) and H.B. No. 2030, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOWING," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 458-02 (FIN) and H.B. No. 2718, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO GENERAL OBLIGATION BONDS FOR THE UNIVERSITY OF HAWAII," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 459-02 (FIN) and H.B. No. 2235, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 460-02 (FIN) and H.B. No. 2599, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE EMERGENCY ENVIRONMENTAL WORKFORCE," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 461-02 (FIN) and H.B. No. 2744, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE FARMERS' MARKET," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 462-02 (FIN) and H.B. No. 2460, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 463-02 (FIN) and H.B. No. 2166, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 464-02 (FIN) and H.B. No. 1717, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT

RELATING TO ETHICS," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 465-02 (FIN) and H.B. No. 2531, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO TEMPORARY HEALTH INSURANCE FOR UNEMPLOYED PERSONS," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 466-02 (FIN) and H.B. No. 2311, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO JUDGES FOR THE CIRCUIT COURT," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 467-02 (FIN) and H.B. No. 680, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 468-02 (FIN) and H.B. No. 2164, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII EDUCATOR LOAN PROGRAM," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 469-02 (FIN) and H.B. No. 2468, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO CEMETERY AND FUNERAL TRUSTS," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 470-02 (FIN) and H.B. No. 2752, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROFESSIONAL AND VOCATIONAL LICENSES," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 471-02 (FIN) and H.B. No. 1770, 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 and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 472-02 (FIN) and H.B. No. 2198, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO GASOLINE," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 473-02 (FIN) and H.B. No. 2638, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII LONG-TERM CARE FINANCING ACT," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 474-02 (FIN) and H.B. No. 2764, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONVEYANCE TAX," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 475-02 (FIN) and H.B. No. 2741, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE CIGARETTE AND TOBACCO TAX," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 476-02 (FIN) and H.B. No. 2251, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT

RELATING TO TOURISM," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 477-02 (FIN) and H.B. No. 2306, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO JUDICIARY RECORDS," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 478-02 (FIN) and H.B. No. 2308, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE COURTS," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 479-02 (FIN) and H.B. No. 1825, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE REVISED UNIFORM COMMERCIAL CODE ARTICLE 9 – SECURED TRANSACTIONS," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

Stand. Com. Rep. No. 480-02 (FIN) and H.B. No. 2473, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM SECURITIES ACT," were placed on the calendar for Third Reading and scheduled for action on February 28, 2002.

HOUSE COMMUNICATION

House Communication dated February 20, 2002, from Patricia Mau-Shimizu, Chief Clerk of the House to The Honorable Benjamin J. Cayetano, Governor of the State of Hawaii, that in accordance with the provisions of Article XVII, Section 3 of the Hawaii State Constitution, written notice is hereby given of the final form of H.B. No. 2848, HD 1, entitled: "A BILL FOR AN ACT PROPOSING AMENDMENTS TO ARTICLE VII, SECTION 12, AND ARTICLE X, SECTION 1, OF THE CONSTITUTION OF THE STATE OF HAWAII TO AUTHORIZE THE STATE TO ISSUE SPECIAL PURPOSE REVENUE BONDS AND USE THE PROCEEDS FROM THE BONDS TO ASSIST NOT-FOR-PROFIT PRIVATE ELEMENTARY SCHOOLS, SECONDARY SCHOOLS, COLLEGES, AND UNIVERSITIES," and that said measure passed Third Reading in the House of Representatives on this date.

ADJOURNMENT

At 12:00 o'clock midnight, the House of Representatives adjourned until 12:00 o'clock noon Thursday, February 28, 2002.

TWENTY-FOURTH DAY

Thursday, February 28, 2002

The House of Representatives of the Twenty-First Legislature of the State of Hawaii, Regular Session of 2002, convened at 12:15 o'clock p.m., with the Speaker presiding.

The invocation was delivered by Reverend Mary Gabrielson, of the Unity Church of Hawaii, after which the Roll was called showing all members present with the exception of Representatives Davis, McDermott, Pendleton and Takai, who were excused.

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

GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 201 through 203) were received and announced by the Clerk were placed on file:

Gov. Mess. No. 201, transmitting Department of Education's Monthly Report on Expenditures for the Felix Consent Decree, Felix Special Monitor, and Felix Monitoring Project for January.

Gov. Mess. No. 202, transmitting copies of the State of Hawaii, State Health Policy Guidebook, prepared by the State Health Planning & Development Agency.

Gov. Mess. No. 203, transmitting the Expenditure Report for Kupuna Care and Elderly Abuse Services, FY 2001-02.

DEPARTMENTAL COMMUNICATIONS

The following departmental communications (Dept. Com. Nos. 19 through 21) were received by the Clerk were placed on file:

Dept. Com. No. 19, from Marion M. Higa, State Auditor, transmitting their Audit of the Adult Mental Health Division's Management of Contracted Community Services.

Dept. Com. No. 20, from the Employees' Retirement System of the State of Hawaii transmitting their Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2001.

Dept. Com. No. 21, from Marie Y. Okamura, Director of Taxation, transmitting their "Hawaii Tax Information Manual."

INTRODUCTIONS

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

Representative Cabreros introduced students from Kalakaua Middle School and their teachers, Ms. Collardo, Ms. Koyanagi, Ms. Watanabe, and Mrs. Bezemeer.

Representative Yonamine introduced students from Pearl City High School, Ms. Amber Horn and Ms. Shayna Onagen, who were accompanied by his staff, Ms. Jennifer Yu.

Representative Bukoski introduced his friend and current Hawaii's Fastest Man, Mr. Kelsey Nakanelua.

Representative Leong introduced her staff, Mr. Harold Zweber.

Representative Ahu Isa introduced her friend, Ms. Charlene Watanabe.

Representative Lee introduced former Representative Len Pepper; Mr. George Honjiyo, a long-term care advocate, and Ms. Jean Aoki of the League of Women Voters.

ORDER OF THE DAY

COMMITTEE ASSIGNMENTS

The following Senate Bills were referred to committee by the Speaker:

<u>S.B.</u> <u>Nos.</u>	<u>Referred to:</u>
2727, SD1	Committee on Consumer Protection and Commerce
2751	Committee on Judiciary and Hawaiian Affairs, then to the Committee on Finance
2813, SD1	Committee on Water and Land Use, then to the Committee on Judiciary and Hawaiian Affairs

The following resolutions (H.R. Nos. 18 through 21) and concurrent resolutions (H.C.R. Nos. 34 through 38) were referred to committee by the Speaker:

<u>H.R.</u> <u>Nos.</u>	<u>Referred to:</u>
18	Committee on Public Safety and Military Affairs
19	Committee on Judiciary and Hawaiian Affairs
21	Committee on Economic Development and Business Concerns, then to the Committee on Consumer Protection and Commerce
<u>H.C.R.</u> <u>Nos.</u>	<u>Referred to:</u>
34	Committee on Public Safety and Military Affairs
35	Committee on Public Safety and Military Affairs, then to the Committee on Finance
36	Committee on Judiciary and Hawaiian Affairs
37	Committee on Education
38	Committee on Economic Development and Business Concerns, then to the Committee on Consumer Protection and Commerce

STANDING COMMITTEE REPORTS

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 438-02) recommending that H.B. No. 2818, as amended in HD 1, be recommitted to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2818, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FIREARMS," was recommitted to the Committee on Judiciary and Hawaiian Affairs with Representatives Davis, McDermott and Takamine being excused.

Representative Abinsay, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 439-02) recommending that H.B. No. 1941, pass Second Reading and be placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1941 pass Second Reading and be placed on the calendar for Third Reading.

At 12:25 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:25 o'clock p.m.

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1941, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis and McDermott being excused.

Representative Abinsay, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 440-02) recommending that H.B. No. 2009, HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2009, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis and McDermott being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 441-02) recommending that H.B. No. 2854, as amended in HD 1, passed Second Reading and was placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2854, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ACCOUNTANCY," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Davis and McDermott being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 442-02) recommending that H.B. No. 2305, as amended in HD 1, passed Second Reading and was placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2305, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM PROBATE CODE," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Davis and McDermott being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No.

443-02) recommending that H.B. No. 2304, as amended in HD 1, passed Second Reading and was placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2304, HD 1, entitled: "A BILL FOR AN ACT RELATING TO JUROR PRIVACY," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Davis and McDermott being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 444-02) recommending that H.B. No. 2428, as amended in HD 1, passed Second Reading and was placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2428, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGE VERIFICATION OF SEXUAL PERFORMERS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Davis and McDermott being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 445-02) recommending that H.B. No. 2433, as amended in HD 1, passed Second Reading and was placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2433, 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 Davis and McDermott being excused.

Representatives Hamakawa and Hiraki, for the Committee on Judiciary and Hawaiian Affairs and the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 446-02) recommending that H.B. No. 2438, as amended in HD 1, passed Second Reading and was placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2438, HD 1, entitled: "A BILL FOR AN ACT RELATING TO IDENTITY," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Davis and McDermott being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 447-02) recommending that H.B. No. 2459, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2459, entitled: "A BILL FOR AN ACT MAKING EMERGENCY APPROPRIATION FOR SOCIAL SECURITY/MEDICARE EXPENSES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis and McDermott being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 448-02) recommending that H.B. No. 2501, as amended in HD 1, passed Second Reading and was placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2501, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE APPROPRIATION FOR STATE EMPLOYEE BENEFIT PROGRAMS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Davis and McDermott being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 449-02) recommending that H.B. No. 2568, as amended in HD 1, passed Second Reading and was placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2568, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE COLLECTION OF TAXES," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Davis and McDermott being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 450-02) recommending that H.B. No. 2569, as amended in HD 1, passed Second Reading and was placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2569, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CONFORMITY OF THE STATE TAX LAWS TO THE UNITED STATES CONSTITUTION," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Davis and McDermott being excused.

At 12:26 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:12 o'clock p.m.

SUSPENSION OF RULES

On motion by Representative Lee, seconded by Representative Djou and carried, the rules were suspended for the purpose of considering certain bills on Third Reading on the basis of a modified consent calendar. (Representatives Ahu Isa, Arakaki, Davis, Kanoho, McDermott, Meyer, Nakasone, Rath, Souki, and Yonamine were excused.)

STANDING COMMITTEE REPORTS

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 451-02) recommending that H.B. No. 2581, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2581, entitled: "A BILL FOR AN ACT RELATING TO COMMERCIAL DRIVER'S LICENSING," passed Third Reading by a vote of 43 ayes to 1 no, with Representative Bukoski voting no, and Representatives Ahu Isa, Arakaki, Davis, Kanoho, McDermott, Rath and Yonamine being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 452-02) recommending that H.B. No. 1725, as amended in HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1725, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DRIVER LICENSE RENEWAL BY MAIL," passed Third Reading by a vote of 44 ayes, with Representatives Ahu Isa, Arakaki, Davis, Kanoho, McDermott, Rath and Yonamine being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 453-02) recommending that H.B. No. 1727, as amended in HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1727, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DRIVER'S LICENSE INSTRUCTION PERMIT RENEWAL," passed Third Reading by a vote of 44 ayes, with Representatives Ahu Isa, Arakaki, Davis, Kanoho, McDermott, Rath and Yonamine being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 454-02) recommending that H.B. No. 1768, as amended in HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1768, HD 1, entitled: "A BILL FOR AN ACT RELATING TO VEHICLE REGISTRATION," passed Third Reading by a vote of 44 ayes, with Representatives Ahu Isa, Arakaki, Davis, Kanoho, McDermott, Rath and Yonamine being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 455-02) recommending that H.B. No. 2302, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2302, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE DRIVERS' LICENSES," passed Third Reading by a vote of 44 ayes, with Representatives Ahu Isa, Arakaki, Davis, Kanoho, McDermott, Rath and Yonamine being excused.

The Chair directed the Clerk to note that H.B. Nos. 2581; 1725, HD 1; 1727, HD 1; 1768, HD 1; and 2302, HD 2 had passed Third Reading at 1:14 o'clock p.m.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 456-02) recommending that H.B. No. 2582, as amended in HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2582, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," passed Third Reading by a vote of 48 ayes, with Representatives Davis, McDermott and Rath being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No.

457-02) recommending that H.B. No. 2030, as amended in HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2030, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOWING," passed Third Reading by a vote of 41 ayes to 7 noes, with Representatives Djou, Gomes, Halford, Moses, Pendleton, Stonebraker and Takai voting no, and with Representatives Davis, McDermott and Rath being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 458-02) recommending that H.B. No. 2718, as amended in HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2718, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GENERAL OBLIGATION BONDS FOR THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 48 ayes, with Representatives Davis, McDermott and Rath being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 459-02) recommending that H.B. No. 2235, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2235, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 47 ayes to 1 no, with Representative Meyer voting no, and Representatives Davis, McDermott and Rath being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 460-02) recommending that H.B. No. 2599, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2599, HD 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE EMERGENCY ENVIRONMENTAL WORKFORCE," passed Third Reading by a vote of 48 ayes, with Representatives Davis, McDermott and Rath being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 461-02) recommending that H.B. No. 2744, as amended in HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2744, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE FARMERS' MARKET," passed Third Reading by a vote of 48 ayes, with Representatives Davis, McDermott and Rath being excused.

At 1:16 o'clock p.m., Representative Meyer requested as recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:18 o'clock p.m.

The Chair directed the Clerk to note that H.B. Nos. 2582, HD 1; 2030, HD 1; 2718, HD 1; 2235, HD 2; 2599, HD 2, and 2744, HD 1 had passed Third Reading at 1:18 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 462-02) recommending that H.B. No. 2460, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that report of the Committee be adopted and that H.B. No. 2460, HD 2, pass Third Reading, seconded by Representative Lee.

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

"I spoke extensively on this measure on Second Reading and I simply wish to incorporate my remarks then, by reference. Briefly, nothing has changed. We have to face the music sometime. I say we face it now. This simply puts that off. Thank you."

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

"Thank you Mr. Speaker. I know we have hard budget times and that is why we are doing this. We are putting off our future liability. We are actually increasing our liability and that is my big reservation. We are not funding the ERS now and we will pay a lot more later. At some point, this needs to stop. I know we have difficult times, but those are my reservations."

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

"Again very briefly Mr. Speaker, I opposed this on Second Reading. I still continue to oppose this for the same reasons. I am very concerned that although we are going to find some short-term savings, over the long-term, the Hawaii State taxpayer is going to pay much more for the passed legislation."

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

"This is a borrowing. I'm opposed to this because we are not only borrowing from what I believe is money owed to the people that work in the State of Hawaii, but also compromises an important fund for the whole economy. This Fund puts million of dollars every month into our economy, and to compromise that hurts us. For us to borrow from this, this is not a savings, this is a borrowing. For us to do this in this way is not good. Thank you."

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

"As I mentioned on Second Reading, we are awaiting recommendations from the ERS actually, as to how to fund our ERS system in the long run. We are still awaiting those recommendations. We have not received them yet. This bill is intended to be a vehicle for addressing those recommendations, once we receive them.

"I think, as I mentioned on Second Reading, that one of the fundamental issues that we need to resolve is whether or not, in the first place, a public pension system like this needs to be fully funded. There is no categorical answer to this question in the research that we have done to date. What is very interesting, just looking at the historical situation involving our State ERS system, as far as this issue goes, when in 1964 the Legislature addressed this issue for the first time.

"In 1964 the Legislature statutorily mandated that the ERS be fully funded, fully amortized, within a 50-year period beginning July 1, 1964. In part, that change was made because the Legislature had amended retirement benefit requirements, so it imposed a 50-year amortization period. In 1988 the Legislature amended that to a 28-year period beginning July 1, 1988. In 1997, this Legislature amended that 28-year period to a 21-year period beginning July 1 and retroactive to July 1, 1995.

"I think it is important for us to look at how the State has approached this issue on a historical basis because it shows, even here, we have not yet resolved this fundamental issue of how and when the ERS should be fully funded. Thank you."

Representative Yoshinaga rose to speak in support with reservations, stating:

"With due respect to the previous speaker's characterizations of this issue, I would just like to state my reservation for the record. We need a long-term plan for dealing with the unfunded liabilities for retirees' benefits. Had this retirement system moved forward to be fully funded, perhaps we wouldn't be faced with some of the kinds of problems that we have with reductions in existing retiree benefits, which we have passed in previous years. So I think that it is very important that at some point, we need to 'bite the bullet' in terms of how we treat our retirees, and how we are going to maintain the benefits for the future. Thank you very much Mr. Speaker."

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

"Thank you Mr. Speaker. You know, a lot of concerns have been raised about passing a measure such as this. When this measure was heard in your Committee on Finance, those very concerns were made clear to all of the members. It is controversial, yet I think clearly, after the events of September 11th and the consequences we are faced with in making some very difficult decisions, I think we are still going through round one. Clearly, as indicated by one of the previous speakers, this is a vehicle to continue the deliberations over the budget shortfall and balancing the State Budget, which is our constitutional responsibility.

"As the Chair of the Labor Committee indicated, there are ongoing efforts regarding what the specific numbers should be. Your Finance Committee felt that given the uncertainties that face the general public, given the military action and all the extraordinary circumstances that we are faced with at this particular point in time, it is most important to be honest.

"We could have left the blanks in the bill and passed it out, and then incur the same comments that were made earlier, yet we wanted to be as honest as we could. This is a vehicle to try to balance the budget. Whether it will have to be these numbers or not, we won't know until after the March Council of Revenues meeting and their forecast. Therefore, at this point, it is to keep this vehicle alive for continued discussion. Thank you Mr. Speaker."

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

"We hear a lot about 9/11, and the need to balance the budget, or the deficit created out of our tax funds coming into the 'kitty.' However let me remind you that this is not the first time that the Legislature has considered, or has even gone and raided funds. In the last decade we have raided a billion dollars from the ERS, which, of course, caused the liability. And in the last four years alone, we've raided over \$240 billion out of a

variety of special funds, essentially to balance the budget. These were all prior to 9/11 and the decrease in our economy.

"The reality of the situation Mr. Speaker, is that we are playing a 'shell game' with money. We are doing what financing people call accounting by 'smoke and mirrors.' We have got to take a look at our government that has been growing, and it is at a point where it is so gigantic, it is so huge, that the taxes that we bring in cannot sustain it. Going after more special funds, looking for more financial schemes as this does to draw out the liability for an extended period of years is doing nothing more than putting our economy, and our people's future, on a credit card. We just can't have that credit card mentality being the legislators that are responsible for running the State of Hawaii.

"We have got to get our fiscal house in order, and that means reducing the size of our government. We've had to raid funds over the past decade, continually, and now we have to use different accounting mechanisms to drive every little bit of money we can to support the expansive size of government. The problem is not the money. We already are the highest taxed people in the USA. The problem is the government is too large, and unless we address that, we are going to be looking for raids every single year, and that is why I object to this. Thank you Mr. Speaker."

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

"Mr. Speaker, I wish to speak with some reservations, only because this Body has not made the tough decisions in the past that needed to be made, and we are in this predicament now. We are a state that is cash-short. We operate all the major programs in this State, unlike many other states. Yet we continue not to do anything about it.

"There was a report in the newspaper not too long ago, that the State of Hawaii has one of the lowest, if not the lowest growth rate, in the last 10 years. So this State has not been growing in numbers. We have seen cuts in the numbers for the major part of my term as Speaker, and you Mr. Speaker, as the Finance Chair. We have provided cuts, and not increases in here.

"So it is very difficult to hear that we have been growing and exploding. If we have exploded, it is only because of mandates by people outside of government, such as for special education. These increases are not for the traditional programs. We have not grown. We have cut continually. This has not been helping us provide the State of Hawaii and the people, a quality life that we all deserve. Thank you very much."

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

Representative Pendleton's remarks are as follows:

"Mr. Speaker, I rise to speak in opposition to House Bill No. 2460 HD2. Mr. Speaker, this bill, while well-intentioned perhaps, is an example of being 'penny wise and pound foolish.' I believe each and every one of us on this floor today is concerned about the perceived budget shortfall. Each of us takes seriously the stewardship of the public purse to which we are obligated. And each of us and is fully aware of our Constitutional obligation to balance the State budget.

"So my opposition today is not to balancing the budget. I want to balance the budget. I am committed to doing so.

"My opposition is not to doing so. My opposition is to how we are doing so. Not the end but the means is my concern here. Not whether to balance the budget, but the manner of doing so is my focus today.

"Mr. Speaker, this is a measure that is touted to help balance our budget by reducing annual payments to the ERS by about \$19 million a year for fiscal years 2004-2007, or about \$60 million for three years. On its face, this sounds like a plausible measure. You simply reduce the funding while we are cash-strapped in hopes that brighter days when we are flush with cash will arrive before 'Doomsday.'

"The other side of the story is what causes my concern and results in my opposition. This extension of payment period, this extended amortization, this refinancing, if you will, of our obligation to fully fund the ERS will result in much higher costs for future generations. As of the end of fiscal year 2001, the ERS board of trustees testified that the ERS had an unfunded liability of approximately \$991 million on an actuarial basis. That is a debt we are legally obligated to pay down, Mr. Speaker. And that 'debt' is constantly growing as state employees continue to accrue retirement benefits. HB 2460 HD2 proposes to extend the time period to pay this off, to lower our annual payments. Again, we are already today – even before passage of this bill – experiencing or suffering from an unfounded liability of about \$991 million dollars.

"Mr. Speaker, when one has a credit card with an outstanding balance, one ideally wants to pay it – the sooner the better, pay it off immediately if possible. But if one could not, one would pay it off sooner rather than later, quicker rather than slower, before the interest charges accumulate so fast that you cannot even begin to pay off the original balance. In short, the growing interest on the debt could bury one financially if one continues to put off the inevitable.

"Proponents of this bill – again, Mr. Speaker, they are well-intentioned I am sure, though very mistaken – are here arguably choosing to put off paying this debt, thereby increasing the total payment due. Who ultimately pays more for this trick? Our children pay.

"The ERS board of trustees testified that by the end of fiscal year 2021, under its most conservative estimates, the unfunded mandate could or would grow to \$1.3 billion. Under this bill, we would need to pay that off in nine years. Mr. Speaker, \$20 million saved today could come at a price of \$400 million in years to come. And so while we may buy a little comfort for the current generation of tax-paying adults. At what cost will this be for our children when they are taxpayers?

"I say today that this is too high a price to leave for future generations. It is 'penny wise and pound foolish,' Mr. Speaker, and is fiscally imprudent. For the foregoing reasons, I oppose House Bill No. 2460, HD2. I implore my colleagues to vote down this measure which places more debt on our children, which jeopardizes the fiscal integrity of the ERS, and which ultimately is shortsighted. 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. 2460, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 35 ayes to 15 noes, with Representatives Auwae, Case, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, Meyer, Ontai, Pendleton, Rath, Stonebraker and Thielen voting no, and Representative Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 463-02)

recommending that H.B. No. 2166, as amended in HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2166, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 50 ayes, with Representative Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 464-02) recommending that H.B. No. 1717, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that report of the Committee be adopted and that H.B. No. 1717, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Again, I spoke on this on Second Reading. This is for mandatory ethics training for legislators. I don't think that this is needed. I think that criminal laws that we have in place seem to be working just fine. The ethical dilemmas that present themselves, I don't think, are all that complex, not as compared to what attorneys have to experience where mandatory ethics training for that group may be appropriate because there are a lot more close calls, and more difficult decisions in that.

"I think one other thing that I thought about after Second Reading is that, you know Mr. Speaker, when we start as legislators in this Body, we all take an oath of office. We take an oath to uphold the laws of our State, of our Constitution, and of our United States Constitution. If that is not enough, I don't know. It just seems that this sort of undermines who we are, and what we are about, and the intent and the purpose of an oath in the first place. So I really don't think this is needed, and I think it is an unfortunate bill that seems to be moving forward. Thank you."

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

"In today's political climate, it is important that as state legislators, and as public servants, that we have a standard of ethics and behavior, which is above the average person. It is correct; we do take an oath that we will uphold the laws. But as individuals, just as regular people, we don't know all the ins and outs of government. We need training. We need some guidance ourselves. None of us are all knowing. None of us are perfect. And it is important that the public understands that we know we have a special role here.

"This bill for mandatory ethics training will just allow the public to build more trust and faith in their government officials. It is so essential that they have trust and faith in what we do here. This provides a mechanism which allows us to better understand government, and to better understand all the pressures involved in that government, and with all of the people involved. Actually, the importance of the legislation that we actually pass, just plain and simple; it will make us better legislators. It will make us better politicians. And it will make us better servants. So I urge all of my colleagues to support this bill because it will be minimum cost to the government, yet I believe, it will have tremendous, tremendous benefits for the State."

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

"Mr. Speaker, I rise in support with some apprehension, some reservations. In support for the reasons previously mentioned by the previous speaker. I have one misguided individual who has filed two ethics complaints against me personally, in the past year. Both of them have been dropped. So I have had my ethics training first-hand, going down to the Ethics Commission office. I had my training and I think job experience will lend that to us. However for the benefit for some of the others in this Body that perhaps need some training, I support this bill."

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

"Thank you Mr. Speaker. I would just like to point out that ethics training is not training in law. There is a difference in violating the law, which we take as an oath to uphold when we come in, and knowing exactly where the line is that we should not cross because of the appearance of impropriety. That is what ethics training teaches us. Thank you."

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

"I am opposed to anything that is mandatory towards legislators. I believe that we are elected by our constituents. We are answerable to our constituents. Any training should be based on a voluntary basis to enhance our skills, but not to be mandatory. Thank you very much."

Representative Gomes rose to respond, stating:

"Thank you Mr. Speaker, just to continue in opposition. For those that may feel 'ethically challenged,' I think there are voluntary classes that are out there. Certainly the Ethics Commission has a lot of information and resources for that. They too, did testify against this because of the burden that would place on them, and the fact that they don't have the resources.

"Frankly, perhaps a better way to do this, is for the political parties themselves to mandate for their respective candidates, their own ethics training and that would be a condition of membership, if you will, when running for a particular Party, but certainly not for the Legislature."

Representative Meyer rose in opposition to the measure and asked that her remarks be inserted in the Journal and the Chair "so ordered."

Representative Meyer's written remarks are as follows:

"Mr. Speaker, I rise in opposition to HB 1717, HD 2. According to the Standing Committee Report Number 464-02, this bill will create a mandatory Ethics Training Program for legislators and appointed state employees.

"The need for such training escapes me. Is the assumption that those elected to serve the people of this State are somehow morally deficient when they come into office so they need to be subjected to some kind of ethics training? Let's face it; even alleged criminals have it better than that. They are at least assumed innocent until proven guilty. This bill, however, seems to assume that elected officials are less than ethical when they are elected and need training in ethical behavior.

"If ever I have seen a bill that proposes a true waste of time and money, this is it."

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

"Mr. Speaker, I stand in strong support. Just some brief comments, just to clarify. I think that it is important to remember that the ethics law is a pretty daunting law. It is Chapter 84, and there are a lot of provisions in that. I think the really complicating factor is, that the line between the ethics and campaign spending often times are blurred. I've been talking with them on another bill, trying to find out where the proper place is to put a particular provision. This is new provision that we want to put in. The Campaign Spending people told me, 'No, not in our Chapter,' and the Ethics guy tells me, 'No, not in my Chapter.' So there are a lot of times where the line is not that clear, and I think that there is a whole statutory chapter, and we could benefit from the education. I think that is what we are trying to get at.

"We often hear of memorandums that come down from the Executive Director of the Campaign Spending Commission. Then we hear of memorandums coming down from the Ethics Commission, and really, those things often times conflict each other. I think that we really do need to get some kind of course where these two things can be coincided, and we can figure out what is really going on.

"Just to clarify the comments by the last speaker. He said the Ethics Commission was in opposition. They were originally opposed to the bill because it had required it for all people. But in the Judiciary Committee, we amended it so it would only be required for a certain membership. Thank you."

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

Representative Souki rose to restate his position, stating:

"In regards to the remarks of the Vice Chair of Judiciary, obviously, I must apologize because he is in the Committee, and I did not hear about the change. Could you have my vote changed to 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. 1717, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ETHICS," passed Third Reading by a vote of 42 ayes to 8 noes, with Representatives Bukoski, Fox, Gomes, Jaffe, Meyer, Ontai, Rath and Whalen voting no, and Representative Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 465-02) recommending that H.B. No. 2531, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2531, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TEMPORARY HEALTH INSURANCE FOR UNEMPLOYED PERSONS," passed Third Reading by a vote of 50 ayes, with Representative Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 466-02) recommending that H.B. No. 2311, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that report of the Committee be adopted and that H.B. No. 2311, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Mr. Speaker, this bill will add more judges to the Second and Third Circuits and basically, 'if you build it, they will come.' I prefer putting money into conflict resolution programs rather than continuing to enlarge the number of lawsuits that we have in our State. 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. 2311, HD 2, entitled: "A BILL FOR AN ACT RELATING TO JUDGES FOR THE CIRCUIT COURT," passed Third Reading by a vote of 48 ayes to 2 noes, with Representatives Meyer and Thielen voting no, and Representative Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 467-02) recommending that H.B. No. 680, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 680, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD," passed Third Reading by a vote of 50 ayes, with Representative Davis being excused.

The Chair directed the Clerk to note that H.B. Nos. 2460, HD 2; 2166, HD 1, 1717, HD 2; 2531, HD 2; 2311, HD 2; and 680, HD 2 had passed Third Reading at 1:38 o'clock p.m.

At 1:38 o'clock p.m., Representative Fox requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:59 o'clock p.m.

RECALL FROM COMMITTEE

At this time Representative M. Oshiro moved that H.B. No. 1916 be recalled from the Committee on Legislative Management, seconded by Representative Djou.

The Chair then recognized the Clerk who announced that H.B. No. 1916 had been referred to the Committee on Legislative Management on January 28, 2002, and that the required 20 days had lapsed for a recall.

The Chair then announced that H.B. No. 1916, entitled "A BILL FOR AN ACT RELATING TO FISCAL NOTES," was recalled from the Committee on Legislative Management by unanimous consent, and was brought to the floor for action.

Representative M. Oshiro moved that H.B. No. 1910 be recalled from the Committee on Finance, seconded by Representative Djou.

The Chair then recognized the Clerk who announced that H.B. No. 1910 had been referred to the Committee on Finance on January 28, 2002, and that the required 20 days had lapsed for a recall.

The Chair then announced that H.B. No. 1910, entitled "A BILL FOR AN ACT RELATING TO THE EXCLUSION OF PROCEEDS FROM THE PROVISION OF MEDICAL SERVICES AND MEDICAL PRODUCTS FROM THE GENERAL EXCISE TAX," was recalled from the Committee on Finance by unanimous consent, and was brought to the floor for action.

Representative M. Oshiro moved that H.B. No. 1918 be recalled from the Committee on Finance, seconded by Representative Djou.

The Chair then recognized the Clerk who announced that H.B. No. 1918 had been referred to the Committee on Finance on January 28, 2002, and that the required 20 days had lapsed for a recall.

The Chair then announced that H.B. No. 1918, entitled "A BILL FOR AN ACT RELATING TO AN EXEMPTION FROM GENERAL EXCISE TAX LIABILITY FOR MEDICARE AND MEDICAID," was recalled from the Committee on Finance by unanimous consent, and was brought to the floor for action.

Representative M. Oshiro moved that H.B. 2705 be recalled from the Committee on Labor and Public Employment and the Committee on Economic Development and Business Concerns, seconded by Representative Djou.

The Chair then recognized the Clerk who announced that H.B. No. 2705 had been referred to the Committee on Labor and Public Employment and the Committee on Economic Development and Business Concerns on January 30, 2002, and that the required 20 days had lapsed for a recall.

The Chair then announced that H.B. No. 2705, entitled "A BILL FOR AN ACT RELATING TO PREPAID HEALTH CARE PLAN," was recalled from the Committee on Labor and Public Employment and the Committee on Economic Development and Business Concerns by unanimous consent, and was brought to the floor for action.

Representative M. Oshiro moved that H.B. No. 1924 be recalled from the Committee on Judiciary and Hawaiian Affairs, seconded by Representative Djou.

The Chair then recognized the Clerk who announced that H.B. No. 1924 had been referred to the Committee on Judiciary and Hawaiian Affairs on January 28, 2002, and that the required 20 days had lapsed for a recall.

The Chair then announced that H.B. No. 1924, entitled "A BILL FOR AN ACT RELATING TO ELECTIONS," was recalled from the Committee on Judiciary and Hawaiian Affairs by unanimous consent, and was brought to the floor for action.

Representative M. Oshiro then moved that H.B. Nos. 1916, 1910, 1918, 2705, and 1924 be postponed to the end of the calendar on Thursday, March 7, 2002, seconded by Representative Djou and carried. (Representatives Davis and Takumi were excused.)

The Chair then announced that consideration of the following measures would be postponed to the end of the calendar on Thursday, March 7, 2002:

H.B. No. 1916, entitled "A BILL FOR AN ACT RELATING TO FISCAL NOTES,"

H.B. No. 1910, entitled "A BILL FOR AN ACT RELATING TO THE EXCLUSION OF PROCEEDS FROM THE PROVISION OF MEDICAL SERVICES AND MEDICAL PRODUCTS FROM THE GENERAL EXCISE TAX,"

H.B. No. 1918, entitled "A BILL FOR AN ACT RELATING TO AN EXEMPTION FROM GENERAL EXCISE TAX LIABILITY FOR MEDICARE AND MEDICAID,"

H.B. No. 2705, entitled "A BILL FOR AN ACT RELATING TO PREPAID HEALTH CARE PLAN," and

H.B. No. 1924, entitled "A BILL FOR AN ACT RELATING TO ELECTIONS."

STANDING COMMITTEE REPORTS

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 468-02) recommending that H.B. No. 2164, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2164, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII EDUCATOR LOAN PROGRAM," passed Third Reading by a vote of 49 ayes, with Representatives Davis and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 469-02) recommending that H.B. No. 2468, as amended in HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2468, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CEMETERY AND FUNERAL TRUSTS," passed Third Reading by a vote of 49 ayes, with Representatives Davis and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 470-02) recommending that H.B. No. 2752, as amended in HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2752, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROFESSIONAL AND VOCATIONAL LICENSES," passed Third Reading by a vote of 49 ayes, with Representatives Davis and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 471-02) recommending that H.B. No. 1770, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1770, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Mr. Speaker, I have already spoken in opposition of this on Second Reading and so my remarks on Third Reading will be very brief. It is my position that we got ourselves and our State into this position because of too much regulation which we too frequently do with business here in our State. The answer to growing gas prices is not through additional regulation, and especially having the Public Utilities Commission do it when the Public Utilities Commission themselves, testified that they don't know how to regulate these gas prices. And for all these reasons, I don't believe an effective means to lowering gas

prices is additional regulation, but instead, probably, the quickest, fastest, most effective means of lowering the gas prices is reducing the 58 cents per gallon tax that we currently have. And for these reasons, I am standing in opposition."

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

"Thank you. I think, that as I understand it, the concern of this bill and the underlying concern is that we have got to regulate, create some 'sunshine' in the oil companies, and the income that they are making. The allegation would be that they're profiteering and gouging the Hawaii consumers. I don't think the case has been made at all for that, and that there's no need for this particular measure. I think there's an article in today's *Honolulu Advertiser* that speaks directly to this and in regard to their recent lawsuit; that there really was no basis for that which the State implemented.

"Also, I would call to your attention, Mr. Speaker, and the Members, to our own Employees Retirement System. Among the many investments that it makes, there's only one oil company that it has an investment in. We hold, in total assets, in excess of \$11 million. In contrast, there are three other pharmaceutical firms that we have assets in.

Representative Schatz rose to a point of order, stating:

"I'm not sure if he's speaking to the bill anymore."

The Chair responded, stating:

"I believe he's trying to relate his statement to the bill, so I'll let him continue on. Representative Gomes, please proceed."

Representative Gomes continued, stating:

"Thank you Mr. Speaker. That is what I'm trying to do. At any rate, I think the point is, if our Employees Retirement System thought there was a hefty profit to be made in the oil industry, I think we would see a lot more oil companies in the portfolio that our Employee's Retirement System invests in, whereas, we have a tremendous amount of investment in the pharmaceuticals. That is just another reason why I think this bill is inappropriate and uncalled for. Thank you."

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

Representative Meyer continued, stating:

"I think it is important to see that in the Committee, the opposition came from DBEDT, from the DCCA, the Consumer Advocate. And also the PUC, they didn't take the position. But they felt that they were not equipped to handle the regulation of this industry. I have other remarks that I would like to have inserted in the journal. Thank you."

Representative Meyer's written remarks are as follows:

"Mr. Speaker, I rise in strong opposition to HB 1770 HD2. According to the Standing Committee Report Number 471-02, the purpose of this bill is "to protect Hawaii's consumers by bringing oil companies under the regulatory jurisdiction of the Public Utilities Commission (PUC) to facilitate access to oil pricing information and to require justification for gasoline prices."

"Mr. Speaker, this is just another attempt at over-regulating the free market and the competition that market is meant to encourage. Simply put, more regulation of the gasoline

industry is not the answer to our problems of gasoline pricing in this State. How often does it have to be demonstrated that competition in the free marketplace is the only way to keep prices at a reasonable level?

"The committee report also states that the Department of Business, Economic Development, and Tourism, Division of Consumer Advocacy, among others, opposed this measure and that the Public Utilities Commission 'submitted comments.' However, we all know that the PUC didn't simply submit comments. The PUC told the Committee that they were inadequate to the task of regulating the gasoline industry. Yet, we sit here assembled today to ram this job down the PUC's metaphorical throat basically because of some misguided notion that we should regulate gasoline prices.

"To me, Mr. Speaker, that would be a travesty."

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

"Mr. Speaker, this is another measure introduced on behalf of our citizens who urged the Legislature to fight for fair pricing of essential goods and services. This measure, H.B. 1770, is another bill designed to provide relief to all the commuting consumers of Hawaii who now pay the highest gasoline prices in the United States.

"The purpose of this bill is to allow oversight of gasoline rates by the Public Utilities Commission. Once again, let me reiterate that most of us have great faith in the marvel of the free competitive market. However, when there is little or no competition in a specific market, it then becomes the Legislature's duty to serve as a 'watchdog' to protect against companies using their unchallenged status to excessively price their products.

"As you know Mr. Speaker, the State is in the process of finalizing the settlement terms of its antitrust suit against the oil industry arguing that gas prices in Hawaii were set at artificially high rates. Details of this agreement, when released along with other relevant documents, will hopefully shed light on the following questions:

- 1) Why does Hawaii have the highest gasoline prices in the United States?
- 2) Why do these prices remain so high when, at the same time, mainland consumers enjoy the lowest gasoline prices in years?
- 3) Why has the wholesale price of gasoline remain roughly the same for the last two years, when the price of crude oil has dropped and declined by approximately 50%?
- 4) Why do Neighbor Island prices soar above Oahu prices, even when accounting for the shipping of the fuel to the Neighbor Islands?
- 5) How was one company able to sell only 3% of its national volume in Hawaii, yet generate 23% of its profits here in Hawaii?

"Are gasoline prices in Hawaii excessive? At this point, I don't know. But I do know this, along with the following bill, these bills would benefit from further vigorous debate, as it moves over to the Senate. Is the strategy that's set forth in this bill and the following bill a reasonable strategy? I strongly believe that it is Mr. Speaker, and others agree. Allow me to quote from a *Star Bulletin* editorial supporting the Committee's recommendation:

"The numerous bills before the State legislature attest to the public's concern about high gasoline prices in Hawaii. Whether any of these measures emerge as law is uncertain. But until information from the State price-fixing lawsuit is revealed, the legislature should keep this issue alive..."

"It goes on to say:

"It appears, with this settlement, at least some information about the industry's practices will be made public. These filings are crucial because they may contain data from experts who could help this legislative body understand how the oil companies operated. And what their costs were in relation to the price consumers were charged. Furthermore, this information could outline how the State could ensure that the oil companies were pricing gasoline fairly..."

"And it closes by saying, Mr. Speaker:

"Until lawmakers see the details of the suit settlement and review information from court documents, the Legislature should keep their options open. This will serve notice on the oil companies, by reminding them that someone is looking over their shoulders."

"I ask members for their support, to at least continue the dialog on this bill for our State's consumers, who deserve fair pricing of essential consumer goods and services. Thank you."

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

"The way that we have decided in the United States to deal with the high cost of oil and all the oligopolies and the monopolies in the oil area is to encourage competition. That has been the view that the United States has taken for over a 100 years. That the way to do battle with concentrated ownership of oil resource is to encourage competition. Price fixing actually discourages competition. Price fixing is the opposite of encouraging competition. When you fix a price you drive competitors out of the market, rather than bring in new competitors to the market. So it's the opposite of the approach that we should be taking. We should be looking at legislation that encourages competition not legislation that puts price setting in the hands of the government. Thank you, Mr. Speaker."

Representative Gomes rose to respond, stating:

"Thank you Mr. Speaker. Just again in opposition. And I too, like many here are fighting for the little guy and lower prices in the cost of living in Hawaii. And I think in one way that we can realistically achieve that, from our point of view, from the State's role in the pricing of gas, is to lower the tax that the State charges per barrel of fuel that comes in to the State.

"We pay in excess of 55 or 56 cents per gallon in total taxes in this State. Nobody in this Body seems to be talking about even a modest 'knockoff' of that tax. Maybe even 25%, even if just for a limited period of time, to pass along a break to our hard working folks out there.

"Also with regard to the lawsuit that was spoken to by the Chair of Consumer Protection. Again, it is already public. It is in the paper. There was no basis for the lawsuit. The East-West Center, in the late 80s, and the DBEDT and the LRB, different entities, both legislative and executive, have studied this matter and have not found collusion or price fixing in the market, but have found other natural market conditions, part of which are our regulatory barriers that we present to the oil companies and other commodities sellers in this State.

"I would also submit on that basis, that the lawsuit itself was in fact, a frivolous lawsuit and it is unfortunate because I think the defendants in this will probably waive their right to challenge the basis of the lawsuit, but it should be noted that there was no basis for them. I think that will become clear as the days go forward. Thank you very much."

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

"Mr. Speaker, I stand in strong support of this. Just wanted to clarify that, I too was rather curious about the article that appeared in the paper. I just tried to contact the Attorney General to find out if I could take a look at the documents that the media is alleging that they are looking at. Actually, it is a whole bunch of documents, hundreds of documents. In fact, it is only the motion for summary judgment which was filed earlier in the case. Of course, there are exhibits that are attached to the motion for summary judgment, so there are a lot of files and a lot of paper and binders and stuff."

"Actually the real documents that we want to look at are a lot, a lot of boxes. It is not just in binders. It is not just several volumes. It is actually several boxes full of documents. Unfortunately those documents, to this date have not yet been released. At that time, when the settlement is ultimately approved, and these documents are made public, at that time we can have a further discussion with the Attorney General and really take a look at what kind of evidence they have. I think it is premature for us to rely on the media's allegations that there was no lawsuit."

"I think it behooves us to actually keep this vehicle moving so that we can continue to look at it when these documents are actually released. I don't think that we can honestly trust the media's perception of these documents because I received a different report. Thank you."

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

"I just wanted to make a point regarding the previous speaker. A lot of times we want to keep good bills moving. I think sometimes we get unintended consequences of those actions and a good example is the traffic camera law that was passed in 1998."

The Chair addressed Representative Bukoski, stating:

"You are out of order at this point. Confine your remarks to the PUC Oil Company Regulation measure."

Representative Bukoski continued, stating:

"I would just like to say Mr. Speaker, that I think that although our intentions are good, sometimes these bills should be stopped in their tracks rather than moving on for further discussion. 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. 1770, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES," passed Third Reading by a vote of 35 ayes to 14 noes, with Representatives Bukoski, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, Meyer, Moses, Ontai, Rath, Stonebraker and Thielen voting no, and with Representatives Davis and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 472-02)

recommending that H.B. No. 2198, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2198, HD 2, entitled: "A BILL FOR AN ACT RELATING TO GASOLINE," passed Third Reading by a vote of 43 ayes to 6 noes, with Representatives Bukoski, Djou, Gomes, Meyer, Moses and Ontai voting no, and with Representatives Davis and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 473-02) recommending that H.B. No. 2638, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 2638, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Again Mr. Speaker, I spoke in opposition to this measure on Second Reading. I have no disagreement with the substance of this bill. I do acknowledge that there are problems regarding long-term care here in the State of Hawaii and that we need to do something about it. My opposition is centered entirely around the fact that this bill contains a \$100 million tax increase."

"Mr. Speaker we know that our economy is in an extraordinarily fragile state. We cannot afford a \$100 million tax increase right now at this time. And even if we could afford an additional \$100 million tax increase Mr. Speaker, I would much rather see that \$100 million dollars go to education. We have a long and big backlog for repair and maintenance in our schools. We need additional teachers. We need to raise salaries for our professors, as well as our teachers. These are all worthy measures. That is not to say that long-term care is not an important issue; it is."

"My difficulty with this is this bill is attaching a \$120 per year tax, per resident over the age of 25. It is not needed. It is not necessary. It is going down the wrong direction. I have to say that, at a larger point, I am very concerned about this 2002 Legislature's direction; that where we seem to be heading is to increase regulation, to increase and expand the size of government and increase taxes. These are all steps in the wrong direction. This particular bill encapsulates all of that, and for these reasons I oppose this measure. Thank you."

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

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

"Mr. Speaker I am changing my position from Second Reading for several reasons. One, I think it is a worthy cause, and so it was a tough decision for me. I called some people that I trust, the Hawaii Catholic Conference, because it is a very important matter for me. I called my old friend, Gene Ward, in Washington D.C. and he said, 'Ten bucks? That is a good deal.' He and his wife just tried to look at it and it was well over a hundred dollars a month for them."

"One of our former colleagues that was introduced earlier, and a friend of mine now I'd like to say, Len Pepper. Len has been beating me about the head and shoulders for the last two days and he has convinced me that this is a worthwhile measure."

"Aside from that I'd like to take the Minority Floor Leader's words and say that this is a 'premium,' not a 'tax increase.' If you look at it that way, I know it is kind of twisting words around, but if it is an insurance premium, I can live with it. I don't have any reservations. It has been a tough decision but I am going to support this. Thank you."

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

"Thank you Mr. Speaker, and I am glad that the big guy from Foster Village has seen the light. For those who haven't, I think that we need to recognize that the light at the end of the tunnel, if we are talking about long-term care, might be an oncoming train. If we don't deal with it, it's going to run us all over. It is going to run away in terms of cost. Any of the costs that we are talking about now is affordable. If we don't do anything about it in the future it will be unaffordable, and it will be passed on to our children and our grandchildren. So I think that for those of us who have any kind of vision, for those of us who can look beyond the tips of our noses, we can see what the problem is, and we can talk to our people, our constituents. We know this is a major problem. If we don't do anything about it now, we are negligent.

"I want to read from real briefly from a nonpartisan Urban Institute policy study who provided testimony before the U.S. Senate on the challenges of financing long-term care. They said:

The current American system of financing and delivering long-term care for the elderly and the younger disabled population is badly broken. At present, the United States does not have either in the private or the public sectors, satisfactory mechanisms for helping people anticipate and pay for long-term care. In particular the disabled elderly and their families find, often to their astonishment, that the costs of nursing home and home care are not covered to any significant extent either by Medicare or their private insurance policies.

"This is what happens to most of our families. We don't really prepare for it until it comes at us and it is a few feet in front of us. Then we have to scramble to look for the care and we have to look for how we are going to pay for it. The fact is that they also state that most of the people over 65 who are disabled, over 75% of them are being cared for at home. Yet when you look at cost of long-term care, most of it is in nursing homes. When you look at the dynamics, that means that people have to pay out-of-pocket when they have to care for a family member at home. But when they can no longer afford to do so, or the family member is too sick to care for, they end up in the nursing home and then they cost government a lot of money. So all of this is either going to cost out of our own pockets, and every single one of us is going to be touched by this.

"We all are going to grow older, our parents, our aunts and uncles we all are going to be affected by it. So if we don't do anything about it now, we are neglectful. So I want to urge everyone, it is not a panacea. It is not going to cover 100% of cost. But it is going to ease the burden for many people. It is going to ease the burden on government spending. Most of all, it is going to benefit a lot of people, and that is who we are doing it for. Thank you."

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

Representative Yonamine's written remarks are as follows:

"Ever since Hawaii became a State, the proportion of elderly to our total population has increased from five percent in 1960 to fourteen percent in 1999 – in that year the proportion of our elderly exceeded that of the US population.

"The life-span of people has increased dramatically over the past 50 years, especially in the United States and Asia. Continued improvements in medical care, disease prevention, sanitation, and nutrition will enable people to live to 100 and longer.

"Of course, there is a mixed blessing in living longer. Those who are 85 years of age and over are a risk for disability and subject to catastrophic illness and chronic illness. The ever-rising costs of health care and related services for our elderly are becoming a heavy burden on families and on the government. For instance, the cost of institutionalized care – nursing homes, for example – is now more than \$68,000 per year and is projected to rise over the next eighteen years to \$200,000!

"We've heard that the shift in the age of our population means fewer workers to pay for the Social Security benefits of the many retired folks. But stop to think for a moment that the ratio of 3 workers to support 1 retiree has other dark implications. As the proportion of the work force shrinks while the retired elderly population increases, the number of potential care-givers also gets smaller relative to the number demanding the services.

"The Executive Office on Aging cites Hawaii as having the lowest nursing home bed ratio in the nation – 28 per 1,000 people age 65 and over, compared to 61 per 1,000 nationwide. Our elderly have been fortunate to have family members give them the personal care needed. But the current generation is less amenable to providing such care having seen first hand the enormous task involved.

"Hawaii's share of Medicaid expenditures for nursing home care will grow to over a half billion dollars by 2020. Our State and federal taxes help pay for that growing cost. Also, contrary to popular belief, Medicare pays for only the initial hospitalization stay of a patient and then for only a limited number of days.

"Long-term care insurance and tax credits are helpful in solving this problem but unfortunately only few of older citizens can afford the \$900 to \$2400 annual premiums. And to further add to the problem, pre-existing conditions will disqualify many from coverage.

"HB 2638, Relating to the Hawaii Long-Term Care Financing Act, is designed to provide an equitable and affordable system of long-term care by establishing the Hawaii Long-term Care Financing Program. The bill will:

Impose a \$10 per month long-term care income tax upon employees age 25 to 98 and self-employed persons beginning in 2004 with fixed annual increases of five percent annually through 2009.

Establish the Hawaii Long-term Care Benefits Fund for the collection of the income taxes.

Establish a blue ribbon panel charged with the general administration of the program.

Provide benefit payments for long-term care services beginning July 1, 2008, of \$70 per day up to a cumulative period of 365 days.

"This measure when enacted will demonstrate to the nation and to the world that Hawaii not only takes care of its aging population but truly cares for its elderly. I strongly support HB 2638."

Representative Fox rose in opposition to the measure, stating:

"This is very difficult for me to oppose this bill because the need is absolute and very real. And the Representative from Kalihi Valley is absolutely correct in his reference to the crucial importance of this problem to the families of Hawaii, and indeed, the United States of America.

"When I used to be a Democrat, one of the proudest achievements of the Party, nationally, was the enactment of the Medicare program which took care of the very serious need of having to provide health insurance for elderly Americans. This program is now failing us in the area of long-term care. Medicare does not cover long-term care. This is a national problem. It is not just a problem for Hawaii. It is a problem that I believe has to be solved nationally. We can't give up the fight for that now.

"If you go to other states, they are facing this problem. They are facing the fact that Medicaid is essentially a tremendous cost burden for other states. The reason it is a high cost burden is because so much of Medicaid goes for nursing home care for indigent people, essentially long-term care. So governors in other states are pressing the federal government to pick up the cost, the portion of Medicaid, to pick it up through the Medicare program to take care of people who are receiving care in hospitals. So the solution outside of Hawaii is to try to get the federal government to pick up the share of Medicaid that goes to long-term care. That's what other governors in other states are striving for.

"Now right now, if you stay where we are right now, Medicaid is paying our long-term care costs in Hawaii. Medicaid is 56% financed by the federal government and 44% financed by the State. So right now, we have a situation where the federal government pays 56% of the cost of long-term care administered through Medicaid. Other states are trying to get the federal government to pick up a 100% of those costs.

"Into this picture comes Hawaii from a completely different angle an angle taken by no other state which essentially says that we give up on the federal government. We are going to do our own program and we are going to finance it 100% by ourselves, the cost of this program.

"And this is not any kind of insurance program. Section 2 of the bill says, 'establish a mandatory income tax assessment program.' There is no question -- we are dealing with a tax, a tax put on the back of the taxpayers of Hawaii who already pay the third highest state and local taxes of any state in the United States. We are going to add another \$100 million to their tax burden to pick up a program that should be done by the federal government; by all right and reason, should be done by the federal government.

"I believe we should not be out in front. This is one area where it is not helping Hawaii to be out in front. We should be with the other states and demanding that the federal government, through Medicare, pick up the cost of Medicaid for long-term care, which would free the 44% that is now tied up by the State of Hawaii in supporting the Medicaid program, to go into providing assisted care in residential homes. That is what we should try to do. That is the only part of the program we should work on here. So, I think that we are on the wrong end of the spectrum, the continuum, from state support to federal support. We ought to be pushing for 100% federal

support, not a 100% State financed program. It is a mistake. Thank you Mr. Speaker."

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

"Like many of my colleagues, this was a difficult decision for me until I think that this is just a tax, its another tax. My colleague from Kalihi Valley made some very good points about looking past the tip of our nose, and I think that we should. If some of these things are so important that we need to tax for them, why don't we fix our education system so our children can have a good education. What about shelter and food for the homeless or poor. And I am afraid that this will do this.

"Ten dollars a month may not sound like a lot, but it comes from those who can least afford it. It does mean a lot of difference to them. It might push many of them over that edge and make them needy and homeless. If we really want to help them, I don't think that this is the way to do it. Maybe if we gave them some of their tax money back they could buy their own insurance because it is available.

"It takes \$100 million out of the economy. That money flowing through the economy helps the entire State and all of the citizens of Hawaii. So I think that we are moving in the wrong direction. I am not saying that long-term care is not important. It is important. But there are other things important too. So what we are saying is let's take care of the aged and not take care of our children. I don't want to make that kind of choice. I don't think any of us should. We should be taking care of all of them. I think the way to do that is give them some of their money back and let them do with it what they need to do with it. Thank you."

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

Representative Kawakami continued, stating:

"Mr. Speaker, I'd like to cite that according to our State of Hawaii's population projection, Hawaii is among the top five states with a rapidly aging population. In the year 2000, we had 207,000 individuals who were 60 plus years old. In 2010, it is estimated to be 272,000 individuals 60 years and above. In 2020, 25% of our Hawaii population will be 60 plus. In addition to this, the average life expectancy of a Hawaii resident is 78.85 years. I believe it is imperative to pass such a bill. Thank you, Mr. Speaker."

Representative Kawakami's written remarks are as follows:

"Mr. Speaker, I rise to speak in strong support of H.B. 2638, HD 2, Relating to the Hawaii Long-Term Care Financing Act.

"This is an important healthcare measure for the 21st century and the increased aging population that we expect to have in Hawaii. According to the State of Hawaii's population projection, Hawaii is among the top five states with a rapidly aging population.

Year 2000 -- 207,000 individuals were 60 plus.
Year 2010 -- An estimated 272,000 individuals will be 60.
Year 2020 -- 25% of Hawaii's population will be 60 plus.

"In addition, the average life expectancy of a Hawaii resident is 78.85 years.

"I believe it is imperative for us to pass this bill to begin to plan for long-term care for the aging population that we know we are going to have. I urge you to support this measure."

Representative Halford rose to speak in support of the measure and asked that the remarks of Representative Arakaki be entered in the Journal as his own, and the Chair "so ordered."

Representative Halford continued, stating:

"Mr. Speaker correctly understands that medical costs are soaring, and that the medical cost of the community are just going to be increasing as time goes on. One thing we could do to mitigate medical costs is by ending our government's unethical social policy of taxing medical services. Thank you."

Representative Djou rose to respond, stating:

"Thank you Mr. Speaker. I am rising for the second time just to clarify and amplify my position. I'd like to reiterate that I don't have any disagreement that there is a problem here, and that this is a very, very serious issue. My opposition to this bill is centered entirely around the fiscal aspects of this measure. I am opposed to this measure because it represents a \$100 million tax increase. It is a massive, massive tax increase."

"To put this in perspective for the members of this Body, I'd like to remind the members that \$100 million is equivalent of us eliminating twelve of our departments here in our State government. Or to put it in another perspective, members of the Minority Caucus have consistently advocated the elimination of the general excise tax on grocery food. However if we decide to go in the other direction, this \$100 million would be the same as doubling the general excise tax to 8% on all grocery foods."

"Finally Mr. Speaker, I would also like to add that the State of Hawaii's track record on the use of funds and creating these massive new programs is not a good one. Before this Legislature, in this Session, I think we can see two perfect examples of what I think is going to happen with this program. This program, in my prediction, in five years or ten years or twenty years, will come to one of two things. It will become a program like the Employees Retirement System where you face these massive billion dollar deficits and we have to figure out some sort of way to cover that deficit. Or number two, this program is going to become something like the Hurricane Relief Fund where it is has hundreds of millions of dollars in excess surplus, and several years down the road, another Legislature will be tempted to raid it. For these reasons, I don't think this is a wise measure and I strongly oppose it."

Representative Auwae rose and asked that the Clerk record an aye vote with reservations for her, and that the remarks of Representative Fox be entered in the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative Meyer rose to speak in opposition to this measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Meyer continued, stating:

"As has been said here, this is a new tax, a new withholding tax. Ten dollars a month from everybody. Most people in Hawaii, both the husband and wife work, so that is \$240 from everyone from ages 25 to 98. It is a regressive tax. For those who are on the high end of the income bracket it doesn't seem to be too bad. For those that are not making so much money, it becomes quite material in their budget planning."

"Of course the bill that is before us will also provide for increases after December 31st, 2004, and it will go up 5% annually for the next five years. It is \$100 million now, and it will soon grow, and if we find or we think that it is not sufficient, it will grow some more from that. Right now, all working people in the U.S. are paying, I think, 13% of their income. It is coming out for social security. When you look at the high cost of living in Hawaii, taxes are number one. This is something that comes at a very bad time."

"I have information that I don't have before me now so I am going to add more remarks in the Journal. I've looked at information that many retired people own their own homes, and have no mortgage. This bill makes no distinction between people who are having financial problems and those that don't. Everybody is paying and young people that will pay for ten years, leave Hawaii, and they will just leave that money behind. I don't think that it is well thought out, and I don't think that it is appropriate. Again I would ask that I insert additional remarks in the Journal."

Representative Meyer's written remarks are as follows:

"Mr. Speaker, I rise in opposition to HB 2638, HD 2. According to the Standing Committee Report Number 473-02, this bill provides an equitable and affordable system of long-term care in Hawaii. However, the system of long-term care provided is neither long-term nor equitable and affordable. And, it certainly is not a program that will provide any assistance within the near future."

"The coverage, at best, is for one year. By no stretch of the imagination is that long-term care. The coverage will be paid for by people from age 25 to 98 at a rate of \$10 per month in 2004 with 5% annual increases through 2009. Benefits would start in 2008 at \$70 per day for 365 days. Certainly that will not create an equitable situation with regard to all those paying into the system."

"The bill is premised on the notion that most people are unable to afford private long-term health care insurance, but nothing could be further from the truth. For example, a 60-year-old can receive the same \$70 per day benefit provided by this bill for 730 days as opposed to the 356 days provided for in this bill for \$36.76 per month or a little over a dollar a day."

"Also, according to *Good Beginnings County Councils*, more than 50% of Hawaii's families with young children cannot afford to pay the cost of living and child care costs they now face. Presently, they are paying out 27% of their incomes for taxes which is the single highest percentage of their incomes being paid out including childcare, housing, and food. And, now, whether you call it an insurance premium or a tax, we are proposing to add an additional \$10 a month to that burden."

"Wouldn't our efforts be better spent in looking carefully at the ever-increasing tax burden placed upon our citizens and seek ways to mitigate that burden to help our citizens be more financially able to purchase the long term health care they need? I, for one, certainly believe this would be a better way."

Representative Stonebraker rose to speak in opposition to the measure and asked that the remarks of Representative Meyer be entered in the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Stonebraker continued, stating:

"Thank you Mr. Speaker. A couple of other points. Not everybody will be eligible for this. You have to be certified so the money that you pay in, you may never be eligible for. Another point is when we talk about long-term care, 365 days"

does not seem like long-term to me. I think possibly we should change the title of this bill to one-year care. That is the extent of the care that will be offered, as well as what can you get for \$70 a day. You certainly cannot buy the medication that you need. You can hardly cover the food expenses as well.

"We talk about \$10 a month, per individual. That is \$120 per year, or \$240 for a couple. My wife could pay for the next 73 years and still not be eligible for this fund. The thing is, and this has been mentioned before, that this is going to go up to \$150 a year. That is \$300 per couple or family.

"There are a couple of points to the bill that are good. On page 8, it says that no raids could be made onto this special fund. I think that we should do that for every single fund that we have. We obviously have a problem with raiding special funds. That is a good point, as well as on page 13 where it prohibits any voluntary contributions. I wish that I could opt out of this, if I still had the choice. This is the only say that I have. For the 20,000 people in my district, I say no."

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

Representative Lee continued, stating:

"I had a couple things that I wanted to say. First, related to the federal government coming forward and doing something about long-term care. If they do it as fast as they've acted on pharmaceutical care, we would be waiting for a long time and I would certainly not be getting my long-term care.

"In the fiscal year of 2001, the State of Hawaii taxpayers paid \$197,522,264 for long-term care services, plus \$5.9 million in administrative costs. The federal government, as you heard, matches the State's cost at the rate of 54%. In just seven years the State's cost are expected to rise to \$281,708,978. As these costs increase, it will become less and less possible for the State to support the Medicaid program. So actually, CarePlus is a long-term investment for the future. This would also ensure that the Medicaid program will be there for the most needy.

"I think some comments were made about what can \$70 a day buy? It can buy a chance for people to stay out of institutional care for a year. That is a \$7,000 per month savings. What other kinds of things would \$70 a day buy? It pays for somebody to come in and bathe an elderly person, for somebody to help with the shopping, for somebody to attend to skin problems. There is a lot that could be bought for \$70 a day. Keeping people out of institutional care will go a long way toward decreasing our Medicaid debt and really will save us money.

"I can't understand how people don't understand that a lot of your tax money goes into Medicaid and it is going to continue and continue to go there. If my mother had this program she would have been able to stay in her own home for year and that would have saved \$7,000 a month. For that reason I strongly support this program.

"Certainly the bill has its problems as it still requires some work and some time and effort, but let's not delay and delay when we really know we have to do something about long-term care. I guess because our own mortality comes before us when we talk about long-term care, we kind of try to push it under the rug, but we can't keep on doing that.

"I am very, very proud of our Chair of Health. He wrote a wonderful article in the Sunday paper. It is called *Elder Care*. It talks about how *keiki* can guarantee care for their *kupuna*.

We are blessed with a culture where we honor older people. Let's take up the challenge. Thank you Mr. Speaker."

Representative Lee's submitted the following article from the *Honolulu Advertiser*:

"When keiki can guarantee their kupuna elder care
By Dennis A. Arakaki

There is a saying that the only certainties in life are death and taxes. With advances in medicine and technology, we may need to update the truism to say with greater certainty that before death comes, most people will turn 100 and that, also with greater certainty, much of our taxes will be spent on caring for the aged and disabled.

No one can deny that the life-span of people, especially in the United States and Asia, has increased dramatically over the past 50 years. Improvements in medical technology, genetics and pharmacy will enable people to live past 100 as a norm rather than an exception. Advances in prevention, intervention and treatment of cancer and cardiovascular diseases, and even in countering the aging process itself, will make it possible for people to live to 120 and more.

According to a recent AARP report, the federal government allocates hundreds of millions of dollars annually for research in genetics and other aspects of the aging process; dozens of biotech companies, financed by venture capitalists and staffed by top-tier scientists, now specialize in life extensions.

On the downside of long life are:

- The probability that those under 40 today will be living more years in retirement than working, but having to live on a limited income.
- The probability of living longer but having to deal with functional impairments.
- The rising cost of health care and related services for our older adults, particularly in instances of catastrophic illness and chronic illness. For example, the cost of institutional care, such as nursing homes, is now more than \$68,000 a year in Hawai'i but is projected to rise to \$200,000 a year by 2020.

The prospect of caring for disabled parents or grandparents who have fixed or limited incomes will fall on their children and even their grandchildren and great-grandchildren. When caring for a frail or disabled elder becomes too difficult at home, family members will then face the problem of paying for institutional care for a nursing-level patient. In most cases this will necessitate the impoverishment of the patient and dependence on government for payment of skilled nursing-level care. After all, how many will be able to afford \$200,000 a year for care in a nursing home?

To compound matters, demographic data show that with the aging of the population, the labor force has changed dramatically over the past 50 years.

Where people in the work force once outnumbered retired people 7-to-1, in 20 years it is projected that the ratio will change to one retiree to every three workers. Despite the expected advances in assistive technology to lessen the need for a skilled work force, there will still be a dramatic shortage of caregivers, such as nurses, home health aides, care-home operators and nursing home aides.

An Executive Office on Aging "Report on Family Caregivers" cites Hawai'i as having the lowest nursing home bed ratio in the

nation — 28 beds per 1,000 people 65 and older, compared to 61 beds per 1,000 nationwide.

Despite the inadequate number of nursing home beds here, families of disabled people in Hawai'i have been blessed by the abundance of caring families who are willing to fill the gap by providing space in their homes and personal care in what are known as adult residential care homes.

However, these care homes are being assigned sicker and more disabled patients. Many of the younger generation of family members have sworn off any thoughts of continuing the tradition after seeing and experiencing what the care home operator has to go through.

These adult residential care homes, as well as adult foster homes and programs such as the Program for All Inclusive Care for the Elderly, Nursing Home Without Walls, adult day health care centers, adult day care and senior centers, provide an array of services along a continuum responding to a variety of needs.

Studies have shown that it is not enough to provide health services to the elderly and disabled, but that social services, family support and senior activities also are an integral part of keeping them independent, vigorous and productive. It should also be noted that programs such as our community senior centers provide low-cost means to keeping the elderly out of institutional care.

Older and increasing

The problem of an aging population is especially critical for Hawai'i and its residents. Why? For one thing, our healthy environment and lifestyles will mean longer lifespans than those in most other places. Hawai'i has the highest rate of longevity in the nation and the third-highest in the world!

According to the Hawaii Medical Service Association's study "Health Trends in Hawaii," the numbers of the "older old" are increasing dramatically. In 1990-99, the number of residents 75 and older increased by 62 percent and the number of those age 65 to 74 increased 13 percent.

We can expect more aging boomers from the Mainland and other countries to see Hawai'i as a retirement paradise. Add to that our customs and cultural values that make it obligatory for children to care for parents.

More and more families will find themselves conflicted with having to care for an elderly family member while still having to work to pay for that care and support their own families. An estimated one-third of adults are engaged in providing informal care for a disabled person. The average age of caregivers is 46, and 70 percent are women.

Family care also takes its toll in the workplace. According to the AARP's National Caregivers Survey, the aggregate costs of caregiving, in terms of lost productivity to U.S. business, is \$11.4 billion per year. Although all we have is anecdotal information, we know that many productive, tax-paying wage earners are compelled to quit their jobs or drastically curtail their work hours to care for a family member.

We also know, anecdotally, that there are large numbers of caregivers who die before the sick family member or need long-term care themselves because of stress, burnout and depression. Another form of stress is from the scams and undue influence imposed on the elderly because of decreased mental capacity or lack of financial guidance by a responsible caregiver.

Even while most people in Hawai'i have family members or know of someone who is being cared for at home or in an institution, a recent AARP survey showed that most Americans who are 45 and older are not familiar with the costs of, and sources of money for, long-term care services.

The truth is that few are prepared for long-term care costs. Private insurance covers less than 3 percent of the cost of all long-term care, and most people do not find out about long-term care until they are confronted by the need for it.

Difficult to define

Although we may be familiar with the term, few can put a finger on an actual definition for long-term care. According to the Coalition for Affordable Long Term Care, it is the ongoing help needed when a person becomes disabled by an illness, accident or chronic condition. It includes nursing, rehabilitative services, social services and personal assistance in bathing, dressing, eating, using the toilet and moving from bed to chair. Long-term care may be given in the person's own home, in a day care center or other community setting, or in an institution such as a nursing home.

According to the Coalition for Affordable Long Term Care, 85 percent of long-term care is provided in the home by families and friends who pay for most of the expense out of their pockets. While the personal costs for families are spiraling, so too are the government expenses.

Costs to families and to government will continue to spiral unless we can establish a comprehensive plan that will ease the financial burden on families and government. Families will continue to be forced to make tough decisions on whether a member is cared for at home, in the community or in an institution. That is, unless they are provided a range of options that offer quality care that is affordable.

'Care Plus'

In Hawai'i, the Joint House-Senate Committee on Financing Long Term Care, along with first lady Vicky Cayetano's ad hoc committee on long-term care, met over the past year and researched the issues relevant to Hawai'i. The result is a proposal called "Care Plus," a sensible plan to ensure that long-term care will be affordable in the years to come.

The goal of Care Plus is to provide Hawai'i residents with access to long-term care coverage providing about \$70 per day for 365 to 450 days, all at an affordable mandatory premium of \$10 per month for those older than 25.

It may be hard to believe that for the cost of two plate lunches, for less than the price of two movie tickets and certainly for less than the cost of a carton of cigarettes or bottle of wine, Hawai'i's residents could be the first in the country to be covered by a "universal" long-term care plan. While the details are still being developed, the plan must be conceptually and actuarially sound before it is established.

One thing is certain, however: A maximum number of residents must participate for the plan to work, and young working adults especially will need to participate in order to make it actuarially feasible. Unless we are willing to consider morbid Orwellian measures such as those portrayed in the book "1984," where people are euthanized when they reach a certain age or level of infirmity, we must face the growing problem of aging and human frailty with a sense of resolve and reality.

Our longevity and our tradition of honoring our elders make Hawai'i the perfect setting to lead the nation in providing compassionate, affordable, quality care for the frail and disabled elderly and other adults. We must show foresight and

courage to establish a system of care, and a caring system that will provide for those in need.

The time to act is now! We owe it to our elders who labored and sacrificed to provide us with a Hawai'i that has become such a special place to live. Now is the time to show the nation and the rest of the world what it is to have a society and government that will honor elders with care, compassion and aloha.

State Rep. Dennis Arakaki, D-28th (Kalihi Valley, Kamehameha Heights), is chairman of the House Health Committee and co-chairman of the Joint Senate-House Committee on Long-Term Care Financing. He has also been a caregiver for more than 10 years, along with other family members, for his 83-year-old disabled mother."

*The Honolulu Advertiser
February 24, 2002*

Representative Case rose to speak in opposition, stating:

"Mr. Speaker, if we were only talking about long-term care on the floor today, wouldn't the vote be unanimous? If we were only talking about the need for long-term care, and the need to solve a Medicaid or Medicare problem if we were only talking about relationships between the federal government and the State having to do with long-term care, of course we would probably say that this bill was the best we could do.

"But we are not talking about only that. We are talking about a much bigger picture. We are talking about competing policy interests, all of which are important, but which have to be weighed and prioritized, and my reason for voting against this bill, at least today, has nothing to do with long-term care. It has to do with the source of the tax.

"The source of the tax lies in the employer-employee relationship. The source of the tax, therefore, is borne ultimately by business, the business world, the world in which jobs are created and jobs are maintained. That world is affected negatively by this bill, and by the tax which is imposed through the employer-employee relationship.

"The bottom line for me is that unless and until we take better care of that world, we cannot put more burdens on them no matter how meritorious. This certainly would be at the top of the pile in terms of meritorious burdens to be placed on the business world in other circumstances.

"We seem to be escaping this basic reality, which is that without taking care of that world which employs most of us, and which generates most of the tax revenues for this State, without taking care of that world, we will not have employees. And without employees, we will not have taxes. And without taxes, we won't have a long-term care program.

"So you have got to start somewhere. You have got to start prioritizing somewhere and I simply cannot start anywhere other than at that starting point. If you trace everything backwards and find some source, that is going to be that source.

"Now if this Legislature had moved forward, truly moved forward, truly committed to economic revitalization, where we could, in fact, project an increase in economic activity, increase in economic activity which could absorb this tax now, or if we at least had provided some offsetting reduction in the taxes and fees that that world bears, so that we can say that we are going to prioritize this particular tax for long-term care over other fees and taxes which we will forego because we prioritize long-term over those other fees and taxes, (for example, we are about to have debate at some point over health care premium

taxes), if we were to prioritize and say, okay, let's go with long-term care, I would say let's go with this bill right now.

"But without some assurance of economic revitalization or some off-setting reduction in the burden that businesses bears, I cannot conclude that it is the right time to do this because I think that it will be counterproductive. I believe that if we simply tack on this tax without taking care of that world, all we are going to end up with is a declining employer-employee relationship, which ultimately bring this program down and will not justify the actuarial assumptions under which the solvency of this program is based.

"So unless and until we go there, I cannot support it. I hope by the end of the Legislature we have done some activity along those lines. If we do, then I will be the first to support this because then, I'd be able to prioritize it fairly. Until then, I just can't."

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

Representative Marumoto's written remarks are as follows:

"Though a long term care program is desperately needed by senior citizens and their families, I do not believe this is the perfect program to address this expensive problem. People have spoken about the drawbacks in this program: the onerous monthly tax on individuals, the yearly increase in the tax, the \$100 million/year pulled out of the weak Hawaii economy, the lack of quality assurance, the fact that this program is not need-based, whether the program will "pencil out", and, finally, the magnetic effect this program will have in attracting retirees or near-retirees to Hawaii.

"My reservations primarily go to the massive paperwork and person-power effort that would be required to track people and payments in this process. There is no existing apparatus or department charged with this job. If enacted, we will have to keep track on a monthly basis of those that have paid or not paid, or how long they have paid – 10 years or less, the status of their accounts. Change of names, addresses, deaths must be tracked. If someone changes jobs, there could be a glitch in the monthly payments. People would enter the program and also depart. The pay out will have to be determined for each person depending on his or her track record. Then that amount must be mailed out – daily, weekly, monthly or lump sum for one year?

"If the myriad of questions are answered before the end of session, I will be happy to enthusiastically vote for this bill without reservation."

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

"I am in strong support, and just real quick. I think that it is proper public policy to pass forward this measure. I think it serves an important purpose and I think that it really stems from your Caucus's belief that we are all in this together Mr. Speaker, and that as much as this will benefit all of us, we should share equal in the burden of this program. For those reasons, and upon that principle, I support this measure."

Representative Arakaki rose to respond, stating:

"Mr. Speaker, I just need to respond because I think there is some misconceptions being put on the floor. First, I think that in terms of the tax, the fact is that expenditures will increase by a 123% in inflation-adjusted dollars from 1993 – 2018. In effect, it is going to be paid for one way or another. Federal

government, State government, out of pocket. It has to be paid for, unless we are not going to care for our elderly.

"The other thing is that people think that the money that is collected is going to go somewhere, maybe into the general revenues or somewhere else. The fact is that the money is going to go back to the people who need it and they are going to go and purchase the kinds of services that they need, and what they feel is appropriate. It is going to result in more jobs for people who choose to care for the elderly and disabled. So the money is going to back into the economy it is going to create jobs.

"In terms of complaining about \$200 or \$300 with inflation. When you talk about long-term care insurance, you are paying over \$1,000 for any decent long-term care insurance plan. So I think that it is affordable. Whether you are a couple or a single person, the fact is it is going to be investment in our future. So I would like to ask all of my colleagues to please support this measure. Thank you."

The motion was put to vote by the Chair and carried and the report of the Committee was adopted and H.B. No. 2638, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII LONG-TERM CARE FINANCING ACT," passed Third Reading by a vote of 36 ayes to 13 noes, with Representatives Bukoski, Case, Djou, Fox, Gomes, Jaffe, Meyer, Moses, Ontai, Rath, Stonebraker, Thielen and Whalen voting no, and with Representatives Davis and Takumi being excused.

The Chair directed the Clerk to note that H.B. Nos. 2164, HD 2; 2468, HD 1; 2752, HD 1; 1770, HD 2; 2198, HD 2; and 2638, HD 2 had passed Third Reading at 2:47 o'clock p.m.

At 2:47 o'clock p.m., the House of Representatives stood in recess until 6:30 p.m. this evening.

NIGHT SESSION

The House of Representatives reconvened at 6:46 o'clock p.m.

STANDING COMMITTEE REPORTS

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 474-02) recommending that H.B. No. 2764, as amended in HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2764, HD 1, pass Third Reading, seconded by Representative Schatz.

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

"Mr. Speaker, repeatedly I've complained about the use of special funds. To me this is just another 'shell game' here. I have nothing against increasing the funding for homeless assistance. Indeed, I think this is an appropriate appropriation, but it shouldn't be coming from the Conveyance Tax.

"What we are doing here is we've taken money from the Transient Accommodations Tax to pay for more environmental programs, and here we turn around with the Conveyance Tax, and take money from the environmental programs and put it into the housing program. It is too much of a 'shell game' that many of the members of the public are frustrated with. I don't like it, and that is why I am voting no."

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

"My daughter-in-law works for a homeless project," and the Chair ruled, "no conflict."

Representative Thielen continued, stating:

"I am in support of this bill; in strong support."

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

"I too, think it is a very worthy thing that we are doing here; homeless assistance. If we care that much about it, we should take it out of the general fund."

Representative Fox rose to speak in opposition, stating:

"The general area of support for the environment is heavily under-funded. This Fund was created with the cooperation of the Legislature and the people in the environmental community who are seeking to provide a steady source of revenue to support maintenance of our natural areas. The idea of setting up this tax through the conveyance route was to make sure that there would be a steady source of revenue for this purpose, and so it is alarming, in the context of us constantly making promises about setting up steady streams of revenue sources, and then coming back and changing them.

"We are chiseling away at this Fund once again. Weighing another important need against the additional existing funding stream is a way of justifying raiding it. As previous speakers have said, we certainly have to do something for the homeless, but why at the expense of the environment?"

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2764, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONVEYANCE TAX," passed Third Reading by a vote of 39 ayes to 7 noes, with Representatives Djou, Fox, Gomes, Jaffe, Moses, Ontai and Stonebraker voting no, and Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 475-02) recommending that H.B. No. 2741, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2741, HD 2, pass Third Reading, seconded by Representative Schatz.

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

"Briefly, I have no objections to 'sin taxes.' I have no objections to raising them as a means of discouraging the perceived sin.

"My reservations have to do with page 3, lines 5 through 7 of this measure which describes the purpose of this Act as being to discourage smoking and the use of tobacco products by increasing the excise tax on cigarettes and tobacco products. I don't think that's the purpose of this Act. I think the purpose of this Act is to generate revenues with which to balance the budget on the revenue-generation side, rather than through expense reduction, and I think we have got to stop that."

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

"The words of my previous colleague ring true. I don't agree that it is okay to tax sin. I do agree that this is a money raising issue. We shouldn't be doing things for just that purpose. Thank you."

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

"I don't believe the bill's objective will reach the intended affect of getting young people and some older people to quit smoking. It will only provide less discretionary funds for the family, and those particular people, to have. Also, some of my very good friends will have to pay more for their cigarettes, like Representative Nakasone, and I am sure he is not speaking, but he is opposed to this bill."

Representative Stonebraker rose to speak in opposition, stating:

"I just wanted to say that I don't think that smoking is a sin. For Representative Rath, I just wanted to mention that."

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

"I just don't think that it is fair that we keep penalizing smokers. I don't smoke, and I don't enjoy the second hand smoke or having my clothes being drenched in it when I travel abroad but we shouldn't raise it. Thank you."

Representative Rath rose to speak in opposition, stating:

"Not only do I smoke periodically, I've been known to burst into flames. The real essence of this bill is to raise taxes. When you raise taxes in an economy, it doesn't really matter where the \$40 million comes from. It doesn't matter if it comes from a tax on milk, or a tax on cigarettes. It is \$40 million being taken out of free enterprise and the private economy. It is \$40 million that doesn't circulate anymore. It is \$40 million that goes out of the hands of people and into the hands of government."

"You can call it 'sin tax.' You can tax anything you want that has some kind of nexus to it, or we want to do it for the kids, or we want to somehow control people. That seems to be the socialist mode. We should make all the decisions for everybody. They shouldn't make any decisions for themselves. If we perceive that it to bad for them, it is okay to tax it. Forget that it is taking \$40 million out of the economy. It is a tax increase. It doesn't matter where you take it out. It is money that is no longer there."

"So you can paint it as doing something good, but what you're really doing is something detrimental to Hawaii's economy. It is detrimental to the economy. It is going to make the economy go further into recession and not come back. We are not talking about reviving the economy at this point, in this House, with our discussions and with what we are doing. We're talking about how deeply depressed are we going to push this economy through increased taxation. This is one of those increased taxes, and I don't think that we should pass this, or any other tax increase, on anything for that matter. Thank you."

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

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

"Mr. Speaker, I disagree with my colleagues that the main purpose is to raise taxes. Obviously that is one thing, but I think we also have to remember that the only way that we can provide any services, including our own salary, is to tax people, because that is what government does. That is how we make our money; through taxes."

"I was reading on the internet, where I get a daily report from the United Nations World Health Organization. If I realized I was going to speak today, I would have brought that quote. They are recommending that we increase the prices of cigarettes all over the world so that people will stop smoking, because this is the main cause of many, many health problems throughout the world, particularly for people who probably could least afford it."

"I am sure that my colleague from Kona over there, can afford that additional revenue that you would give to the State. My dear friend over there from Kona is a successful businessman and he makes a lot of money, and if we can take some more money from him, all the better."

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

"I am rising in support of the bill also. My support comes from the fact that studies show that children are significantly deterred by increased tobacco costs. It is a measure that has worked in other states. So while my colleague from Kona may bear the brunt, let's look at the youngsters out there that are going to be deterred from starting that addictive habit. And if we can keep them from starting to smoke, it is very likely they will not smoke when they are the age of my colleague from Kona."

Representative Lee rose to declare a potential conflict of interest, stating:

"I am a member of the board of the Central Oahu Unit of the American Cancer Society," and the Chair ruled, "no conflict."

Representative Lee continued in support of the measure, stating:

"Mr. Speaker, this bill should be looked upon as an anti-smoking measure. It is a bill that will eventually save money for our State and for every taxpayer. Healthcare expenditures caused by smoking currently total more than \$89 billion per year, nationwide. With billions being paid directly by smokers, or through direct healthcare payments or increased health insurance rates, our Medicaid costs continue to grow and grow. Why?"

"Almost all acute and chronic and debilitating disease are caused, or made worse, by smoking. Chronic obstructive pulmonary disease, emphysema, high blood pressure, asthma, stroke, heart attacks, lung cancer etc., etc., etc. It is ludicrous to worry that this tax, which will only affect the 20% of the population that smokes, is a burden on the little guy. Smokers are a burden on every one of us."

"Low income families suffer the most from smoking. The decline in smoking from cigarette taxes saves lives, reduces human suffering, promotes public health and prevents more kids from becoming addicted. Even those low-income people who do not change their habits still benefits from having fewer family members, friends, and neighbors fall prey to cigarette use."

"Americans support cigarette taxes in poll after poll. Not surprising, cigarette companies oppose higher cigarette taxes, and why shouldn't they. They have been preying on the poor

and the uneducated for years and years. Protecting the little guy from this tax is pretty patronizing. Let's do the right thing and pass this measure."

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

"Thank you Mr. Speaker. I rise in opposition to this additional tax that we are passing here today. I think that none of us can disagree with the fact that this hits the folks in the low-income bracket in a disproportionate manner, those that smoke. It bothers me, the way the Legislature and the government is always trying to engineer things socially. I think that adults have the ability to make choices.

"This bill, if we truly want to stop smoking, we would make cigarettes illegal. But we want that income. Even the suit that was entered into by all the states, they got their money that they won, but they want that money. They want the additional money because if the tobacco companies were put out of business, they would have nothing to pay into that suit. That income that we look at to come to the State of Hawaii every year wouldn't be arriving here.

"So there is a real conflict here. We are talking out of both sides of our mouth. We want people to live healthier lives, but we want them to keep buying their cigarettes. To say that this \$40 million is new, 11 cents per cigarette or \$2.20, is a substantial increase in the price of cigarettes. If we truly want people to stop smoking, let's make it illegal here in Hawaii. We can't smoke in restaurants now. They don't want you to smoke in bars. Let's just cut it out. The 'bootleggers' and the black-market people would love it. Thank you Mr. Speaker."

Representative Ahu Isa rose to speak in opposition to the measure, stating:

"I had a call from one of my constituents. She lost her job and is under terrible stress. She said she opened up the paper, and saw this increase in cigarettes, and she is a smoker. She said, 'What else are they going to do to us?' The economy is down, and this is the only thing she has, because she can't smoke her marijuana anymore, are her cigarettes. These are the people who can least afford it. So people, even if you raise the price of it, they are still going to smoke. If we want to address the health problem, we should just ban smoking in public areas."

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

Representative Schatz continued, stating:

"I have two grandfathers that I have never met, who died of lung cancer, so this is dear to my heart. Also I have some other family members who are having health problems due to cigarettes. I just found it astounding that one of the previous speakers was suggesting that, in all seriousness, that we actually want the revenue from the cigarettes, and we actually want to keep people smoking. I find it very difficult to believe that anybody on this House floor actually wants people to be smoking and becoming sick in order to increase tax revenue. That is offensive to me. Thank you."

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

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

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

"Mr. Speaker, I rise in strong support of this measure. A couple of points. First of all, the bill was amended in Finance so that the increase is not from 5 cents to 10 cents, but from 5 cents to 6 cents. It is a 20% increase.

"Secondly, as one of the primary sponsors of this measure, the intention was to address the issue of minors, and especially teenagers smoking cigarettes. Hawaii has some terrible reports of underage minors smoking, especially amongst females.

"The third thing Mr. Speaker, is that this bill has some immediate financial consequences, not only on the revenue side, but on the expenditure side. Let me explain. If you were to go into the Department of Health or the Department of Human Services, you would find that a lot of our Medicaid dollars go to the treatment of acute illnesses of our poor people. Many of them have upper respiratory ailments and also cardiac ailments. A lot of them, if you speak to the doctors who treat these people, trace the source of those diseases to smoking.

"This is a win-win bill, and I think members should really think about what kind of public policy we are bringing forward in 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. 2741, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE CIGARETTE AND TOBACCO TAX," passed Third Reading by a vote of 31 ayes to 15 noes, with Representatives Ahu Isa, Auwae, Bukoski, Djou, Fox, Gomes, Jaffe, Marumoto, McDermott, Meyer, Moses, Ontai, Rath, Stonebraker and Whalen voting no, and with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 476-02) recommending that H.B. No. 2251, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Schatz and carried, the report of the Committee was adopted and H.B. No. 2251, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TOURISM," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 477-02) recommending that H.B. No. 2306, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Schatz and carried, the report of the Committee was adopted and H.B. No. 2306, HD 2, entitled: "A BILL FOR AN ACT RELATING TO JUDICIARY RECORDS," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 478-02) recommending that H.B. No. 2308, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Schatz and carried, the report of the Committee

was adopted and H.B. No. 2308, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE COURTS," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 479-02) recommending that H.B. No. 1825, as amended in HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Schatz and carried, the report of the Committee was adopted and H.B. No. 1825, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE REVISED UNIFORM COMMERCIAL CODE ARTICLE 9 - SECURED TRANSACTIONS," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

The Chair directed the Clerk to note that H.B. Nos. 2764, HD 1; 2741, HD 2; 2251, HD 2; 2306, HD 2; 2308, HD 2; and 1825, HD 1 had passed Third Reading at 7:04 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 480-02) recommending that H.B. No. 2473, as amended in HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2473, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM SECURITIES ACT," passed Third Reading by a vote of 45 ayes, with Representatives Arakaki, Case, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 481-02) recommending that H.B. No. 682, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 682, entitled: "A BILL FOR AN ACT RELATING TO CONTESTS OF OCCUPATIONAL SAFETY AND HEALTH MATTERS," passed Third Reading by a vote of 45 ayes, with Representatives Arakaki, Case, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 482-02) recommending that H.B. No. 1008, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1008, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS BY MAIL," passed Third Reading by a vote of 45 ayes, with Representatives Arakaki, Case, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 483-02) recommending that H.B. No. 1009, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1009, entitled: "A BILL FOR AN ACT RELATING TO THE RETURN AND RECEIPT OF SPECIAL CASE ABSENTEE BALLOTS," passed Third Reading by a vote of 45 ayes, with Representatives Arakaki, Case, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 484-02) recommending that H.B. No. 1542, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1542, HD 1, entitled: "A BILL FOR AN ACT RELATING TO VOTER REGISTRATION," passed Third Reading by a vote of 45 ayes, with Representatives Arakaki, Case, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 485-02) recommending that H.B. No. 1740, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1740, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENTERPRISE ZONES," passed Third Reading by a vote of 45 ayes, with Representatives Arakaki, Case, Davis, Leong, Takai and Takumi being excused.

The Chair directed the Clerk to note that H.B. Nos. 2473, HD 1; 682; 1008; 1009; 1542, HD 1; and 1740, HD 1 had passed Third Reading at 7:05 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 486-02) recommending that H.B. No. 1772, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1772, entitled: "A BILL FOR AN ACT RELATING TO RESIDENCY OF POLICE OFFICER APPLICANTS," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 487-02) recommending that H.B. No. 1843, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1843, pass Third Reading, seconded by Representative Lee.

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

"Again Mr. Speaker, I believe that last session we made significant progress with passage of the 'right to strike' Act. This partially reverses it. I understand and respect the Chairman of the Labor Committee stating that this, perhaps, was an oversight. In the Committee, the Department of Human Resources clearly stated that this was not an oversight, and they opposed this measure. For those reasons, and because I believe we need to give the right to strike and that reform a chance to work itself out before we tinker with it. I am standing in opposition. Thank you."

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

"On Second Reading, I did not state that the exclusion of Unit 9 - Nurses was an oversight. What I did state was that, last year, we exempted Unit 10 - Licensed Professional Nurses, and that in hindsight, there was no reason to distinguish Registered Professional Nurses from the Licensed Professional Nurses."

"The Department of Human Resources also did not, in their testimony, distinguish between the two classes of employees. I still have not heard from the members on Second Reading, or on Third Reading, the reason why we should distinguish between the two classes of nurses. Both provide essential public services and I do not believe that there is a basis to distinguish between them. Thank you."

Representative Moses rose to speak in support with reservations, stating:

"Thank you Mr. Speaker. I did vote no on this in Finance, and I am now standing in support with reservations. I did vote no earlier, and I am still not sure which way to go on this one, so I am going to vote with reservations. I think we do need to look at why they were not included last time, and if the Chair of Labor has not gotten an answer yet, maybe we can get it along the way. We need to know why they were not included, or not allowed to go into binding arbitration previously. There must have been a reason, but if there was no reason, and if it was an oversight, I'll let it go."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1843, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING IN PUBLIC EMPLOYMENT," passed Third Reading by a vote of 44 ayes to 2 noes, with Representatives Djou and Rath voting no, and with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 488-02) recommending that H.B. No. 1942, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1942, pass Third Reading, seconded by Representative Lee.

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

Representative Pendleton's written remarks are as follows:

"Mr. Speaker, I rise in strong support of House Bill number 1942, which establishes a commission to celebrate the one-hundredth anniversary of the arrival of Filipinos to Hawaii. The Filipino community brings hard work and rich cultural influences to the islands. They have not only contributed to the history and culture of Hawaii, but to the history of the United States as well.

"In the early 1900's Filipino workers, particularly from Ilocos Sur, Iloilo, and Cavite, came to work on the sugar cane plantations of Hawaii. In doing so, they were also seeking out a better life. Most took low-paying jobs in the agriculture and food service industries. Many were not planning on residing permanently in the United States. They sought to make enough money to obtain 'wealth' status in the Philippines and return home. However, with such low paying jobs, most were unable to return.

"In between the arrival of the first Filipinos and the end of World War II, waves of Filipino immigrants came to Hawaii. At the start of Japanese aggression, many Filipinos wished to stand by their fellow countrymen in the war against the Japanese, and in so doing joined or fought beside the American military.

"Filipinos contributed to successfully fighting Imperialism in World War II, fighting in the name of freedom. These

Filipinos fought, bled, and died furthering the interests of the United States and under unique circumstances where for all practical purposes they were fighting for the United States. They numbered almost 200,000 and fought under American military commanders who led them to believe they would participate in and receive equal military benefits. They placed themselves in harm's way for the cause and purpose of the United States. Even so, they were still denied the privileges and benefits due to them by the American government.

"Filipinos have made their contributions to Hawaii and the United States as authors, politicians, and actors. They have come to the United States as doctors, lawyers, nurses, engineers, and sailors in the United States Navy. Their contributions to society should be celebrated and lauded.

"Although I am one-half Caucasian and one-half Filipino, I am 100% Filipino at heart and I embrace and cherish my roots. The Filipino culture is more than a dish of pancit or a plate of lumpia. It is a culture of genuine warmth and affection, a culture of strong ties and family bonds, and a culture full of love and respect for mankind.

"I have raised my family with these values and traditions. It is important that I instill in my children a love for their cultural heritage and a deep respect for those Filipinos who made their way in Hawaii and made life easier for those of us second, third, and fourth generation Filipinos. It is important that my children know who they are and have a full understanding and appreciation for their roots.

"As I see it, Mr. Speaker, House Bill 1942 is a necessary one. The time to celebrate and honor this culture is long overdue in Hawaii and it is important that it is not overlooked on such an important occasion. This bill establishes a commission to plan a celebration of the centennial anniversary of the arrival of the first Filipinos to Hawaii. This festival will contribute significantly to Hawaii by bringing awareness to the Filipino culture, a culture that at times remains hidden in the shadows of other Asian cultures and American culture.

"As a state comprised of numerous cultures, it becomes increasingly important that none of these cultures is overlooked. In order to promote tolerance and unity, we must understand each other's cultures. This commission will serve as mechanism to show the true meaning of the Filipino culture. It will promote projects, programs, and activities that show how the Filipino people have been and continue to be a positive influence in the State of Hawaii.

"So for these reasons, Mr. Speaker, I support House Bill 1942 and whole-heartedly ask my colleagues to support this bill, which will have the effect of celebrating a rich and diverse culture in the State of Hawaii. I 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. 1942, entitled: "A BILL FOR AN ACT ESTABLISHING A COMMISSION TO CELEBRATE THE ONE-HUNDREDTH ANNIVERSARY OF THE ARRIVAL OF FILIPINOS TO HAWAII," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 489-02) recommending that H.B. No. 1976, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1976, pass Third Reading, seconded by Representative Lee.

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

Representative Kawakami's written remarks are as follows:

"Mr. Speaker, I rise to speak in strong support of H.B. 1976, Relating to the Issuance of Special Purpose Revenue Bonds to Assist Industrial Enterprises.

"Gay and Robinson, Inc. is the only remaining sugar producer on the island of Kauai and only one of two remaining sugar plantations in Hawaii. The company was given the exclusive option to purchase the sugar and molasses terminal facility at Nawiliwili. The purchase of this facility was critical to G&R's long-term survival, and critical to the West Side of Kauai.

"The timing of the purchase also necessitated that G&R purchase the facility from existing credit line that must be cleared annually. The issuance of the special purpose revenue bonds will greatly improve G&R's financial position and position the Company toward long-term financial viability.

"Mr. Speaker and my colleagues, I ask for your support on this measure to assist Gay and Robinson, Inc., and more importantly, to assist the only sugar plantation on my island of Kauai."

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

Representative Abinsay's written remarks are as follows:

"Mr. Speaker, I rise in support of Standing Committee Report No. 489-02, H.B. No. 1976 – Relating to the Special Purpose Revenue Bonds to Provide Assistance to Gay & Robinson, Inc.

"Mr. Speaker and members, as you know, Gay & Robinson is the only surviving sugar producer in Kauai providing jobs to local residents as well as support to local businesses. For many, many years, Gay & Robinson have been a vital part of the state's economy particularly in Kauai.

"But, however, like any other businesses around the state, Gay & Robinson is not spared from the effects of the downturn of our economy. They too are struggling.

"Gay & Robinson needs the State's support in the form of special revenue bonds to be able to survive and continue to preserve agriculture in Kauai and its rural landscape.

"Members, I am asking your support for H.B. No. 1976 to pass 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. 1976, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST INDUSTRIAL ENTERPRISES," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 490-02) recommending that H.B. No. 2002, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2002, entitled: "A BILL FOR AN

ACT RELATING TO PUBLIC LANDS," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 491-02) recommending that H.B. No. 2128, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2128, HD 1, pass Third Reading, seconded by Representative Lee.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2128, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR PROJECTS ON THE ISLAND OF HAWAII," passed Third Reading by a vote of 37 ayes to 9 noes, with Representatives Fox, Gomes, Hale, Halford, Jaffe, Meyer, Ontai, Rath and Thielen voting no, and with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 492-02) recommending that H.B. No. 2132, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2132, HD 1, pass Third Reading, seconded by Representative Lee.

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

Representative Pendleton's written remarks are as follows:

"Mr. Speaker I rise in strong support of House Bill 2132, House Draft 1, relating to female parity in corrections.

"This measure would serve to provide the same quality of service to women as men receive. This measure came about through the realization that women, although a smaller amount of the prison population, nevertheless should be given the same level of services and treatment as men.

"The growth of the female prison population has steadily increased in recent years. According to the U. S. Department of Justice, the number of women in prison has grown at a faster rate than that of men across the nation. In an official study by the General Accounting Office done in 1998, the number of female inmates has increased by more than 500 percent in the past two decades. Hawaii has not experienced such growth yet we need to address the needs of our women inmates.

"Clearly we need to begin addressing the quality of services given to women in prisons. Due to previously lower numbers of women who are in the system, facilities are often ill equipped to deal with the increase in the female prison population. This bill does not ask for special treatment of women who have been incarcerated. It provides primarily for treatment programs for women to be implemented that are equivalent to the range and quality of programs offered to males.

"In the United States we value equality of every individual in regards to the law. Men and women are expected to live by the same laws and are punished by the same laws. Why then should women not be given access to the same quality of rehabilitation and service as men? Women should have the

same opportunity to access equivalent programs available to men in correctional facilities. The principle of equality is at the heart of this bill.

"There is an ever-growing need for programs, which educate, rehabilitate and reform inmates, so that the cycle of crime can be brought to an end. If we continue to ignore and exclude one group of people from programs, we are in effect complacent in allowing the cycle to continue. I am sure that my colleagues agree that reducing crime is a priority. House Bill 2132, House Draft 1, seeks to break the cycle of incarceration and re-incarceration. We must address recidivism.

"For these reasons, Mr. Speaker I support House Bill 2132, House Draft 1, which would provide for equal services for women. And I urge all my colleagues to support its passage. Thank you Mr. Speaker."

At 7:08 o'clock p.m., Representative Hale requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 7:09 o'clock p.m.

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2132, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONS," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

The Chair directed the Clerk to note that H.B. Nos. 1772; 1843; 1942; 1976; 2002; 2128 HD 1; and 2132, HD 1 had passed Third Reading at 7:12 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 493-02) recommending that H.B. No. 2195, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2195, entitled: "A BILL FOR AN ACT RELATING TO HAWAII TOURISM AUTHORITY," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 494-02) recommending that H.B. No. 2216, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2216, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MENTAL HEALTH, ALCOHOL, AND DRUG ABUSE," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 495-02) recommending that H.B. No. 2236, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2236, HD 1, entitled: "A BILL FOR AN ACT RELATING TO A GEOTHERMAL-TO-HYDROGEN TAX CREDIT," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 496-02) recommending that H.B. No. 2237, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2237, HD 1, entitled: "A BILL FOR AN ACT RELATING TO A HYDROELECTRIC TAX CREDIT," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 497-02) recommending that H.B. No. 2248, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2248, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS FOR PROCESSING ENTERPRISES," passed Third Reading by a vote of 44 ayes to 2 noes, with Representatives Gomes and Meyer voting no, and with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 498-02) recommending that H.B. No. 2249, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2249, entitled: "A BILL FOR AN ACT RELATING TO NORTH KOHALA," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

The Chair directed the Clerk to note that H.B. Nos. 2195; 2216, HD 1; 2236, HD 1; 2237, HD 1; 2248, HD 1; and 2249 had passed Third Reading at 7:13 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 499-02) recommending that H.B. No. 2278, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2278, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 500-02) recommending that H.B. No. 2329, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2329, entitled: "A BILL FOR AN ACT RELATING TO MANAGED COMPETITION," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 501-02) recommending that H.B. No. 2385, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2385, pass Third Reading, seconded by Representative Lee.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2385, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST WINES OF KAUAI, LLC," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 502-02) recommending that H.B. No. 2429, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2429, HD 1, pass Third Reading, seconded by Representative Lee.

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

"This is the cigarette stamp or the stamps to show that you paid your taxes. I have no problem with the stamps. What I have a problem with is, let's say that I am driving home at 2:00 a.m. and I am smoking, but I don't smoke, but let's say I do. I run out of cigarettes so I stop by a vending machine and I buy a pack of cigarettes, and it is dark. I get in my car, and I am smoking the cigarette. The policeman, for some reason, I don't know how they would find it. For some reason, they stop me, and they are going to take my car. This bill says, that if I have any cigarettes, stamps, or counterfeit stamps found in my vehicle or premises, or vending machine, that they are going to take it.

"I don't know what a stamp tax or cigarette stamp is supposed to look like, so how would I know if it is a counterfeit if I bought it from a vending machine? Now I know the intent of the bill is to take that bad vending machine, or take somebody's vehicle, if they are selling these cigarettes on the black-market. This allows them to take any vehicle if they find cigarettes in it. It doesn't say how many. It doesn't even say it has to be packs. Just cigarettes. So I think people ought to look at that. It is on page 3 of the bill, and for that reason I am voting no."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2429, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOBACCO," passed Third Reading by a vote of 44 ayes to 2 noes, with Representatives Moses and Stonebraker voting no, and with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 503-02) recommending that H.B. No. 2449, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2449, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SMALL BUSINESS," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 504-02) recommending that H.B. No. 2453, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2453, entitled: "A BILL FOR AN ACT RELATING TO THE CAPITAL LOAN PROGRAM," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

The Chair directed the Clerk to note that H.B. Nos. 2278, HD 1; 2329; 2385; 2429, HD 1; 2449, HD 1; and 2453 had passed Third Reading at 7:16 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 505-02) recommending that H.B. No. 2454, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2454, entitled: "A BILL FOR AN ACT RELATING TO ENTERPRISE ZONES," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 506-02) recommending that H.B. No. 2478, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2478, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT STATUS OF PERSONNEL OF THE HAWAII NATIONAL GUARD YOUTH CHALLENGE ACADEMY," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 507-02) recommending that H.B. No. 2485, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2485, entitled: "A BILL FOR AN ACT RELATING TO CENTRAL SERVICE EXPENSES," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 508-02) recommending that H.B. No. 2500, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2500, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATUTORY REFERENCES AFFECTED BY ACT 253, SESSION LAWS OF HAWAII 2000," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 509-02) recommending that H.B. No. 2525, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2525, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC WORKS PROJECTS," passed Third Reading by a vote of 36 ayes to 10 noes, with Representatives Djou, Gomes, Jaffe, Marumoto, Meyer, Moses,

Ontai, Pendleton, Rath and Whalen voting no, and with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 510-02) recommending that H.B. No. 2526, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2526, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

The Chair directed the Clerk to note that H.B. Nos. 2454; 2478; 2485; 2500, HD 1; 2525, HD 1; and 2526 had passed Third Reading at 7:17 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 511-02) recommending that H.B. No. 2527, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2527, entitled: "A BILL FOR AN ACT RELATING TO SAFETY INSPECTION FREQUENCIES FOR REGULATED EQUIPMENT," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 512-02) recommending that H.B. No. 2536, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2536, entitled: "A BILL FOR AN ACT RELATING TO SECTION 17 OF ACT 85, SESSION LAWS OF HAWAII 1999," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 513-02) recommending that H.B. No. 2554, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2554, entitled: "A BILL FOR AN ACT RELATING TO NONCOMMERCIAL PIERS," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 514-02) recommending that H.B. No. 2563, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2563, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMPENSATION OF CRIME VICTIMS," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 515-02) recommending that H.B. No. 2565, HD 2, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2565, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EXPLOSIVES," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 516-02) recommending that H.B. No. 2595, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2595, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO ENHANCE AGRICULTURAL TOURISM VENUES," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

The Chair directed the Clerk to note that H.B. Nos. 2527; 2536; 2554; 2563, HD 1; 2565, HD 2; and 2595, HD 1 had passed Third Reading at 7:18 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 517-02) recommending that H.B. No. 2659, HD 2, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2659, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CAVE PROTECTION," passed Third Reading by a vote of 45 ayes to 1 no, with Representative Stonebraker voting no, and with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 518-02) recommending that H.B. No. 2710, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2710, HD 1, entitled: "A BILL FOR AN ACT RELATING TO OCEAN LEASING," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 519-02) recommending that H.B. No. 2738, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2738, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LANGUAGE," passed Third Reading by a vote of 40 ayes to 6 noes, with Representatives Djou, Jaffe, Moses, Ontai, Rath and Stonebraker voting no, and with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 520-02) recommending that H.B. No. 2837, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2837, HD 1, pass Third Reading, seconded by Representative Lee.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2837,

HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 521-02) recommending that H.B. No. 1900, HD 1, pass Third Reading.

Representative M. Oshiro moved that H.B. No. 1900, HD 1, pass Third Reading, seconded by Representative Lee.

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

Representative Pendleton's written remarks are as follows:

"Mr. Speaker I rise in strong support of House Bill 1900, House Draft 1, Relating to Intoxicating Liquor.

"This measure would require businesses who are licensed to sell alcohol, to post a sign warning of the dangers of consuming alcohol while pregnant. It is believed that through education and awareness, we can deter women who are pregnant from consuming alcohol and harming their unborn children.

"The National Organization on Fetal Alcohol Syndrome says that Fetal Alcohol Syndrome is the leading known cause of mental retardation. At least 5,000 infants are born each year with Fetal Alcohol Syndrome and another 50,000 children show symptoms of Fetal Alcohol Effects, which is a less severe form of Fetal Alcohol Syndrome.

"Fetal Alcohol Syndrome is a condition which is characterized by facial abnormalities, growth deficiency and evidence of central nervous system dysfunction. Deficits in general intellectual functioning, difficulties with learning, memory, attention, and problem solving as well as problems with mental health and social interactions are also common traits of a person suffering from Fetal Alcohol Syndrome. As a result both the individual and his or her family face persistent hardships in virtually every aspect of life.

"Fetal Alcohol Syndrome is a very tragic, yet also very preventable condition. When a pregnant woman drinks alcohol, so does her baby. A mother supplies nourishment and life sustaining oxygen through blood vessels in the placenta. Just as she can transfer nutrients necessary for the health and growth of the baby, so she can also transfer toxins that prevent development and cause harm. By refraining from the consumption of alcohol, women can avoid the harmful effects that alcohol has on their unborn child.

"A few years back the United States government saw fit to require conspicuous warnings on advertisements for cigarettes. These warnings had the intent of warning people of the dangers of using a particular product in hopes of reducing said usage. The idea is the same in this bill. We seek to discourage pregnant women from using a product that is detrimental to the health of their babies, through alerting them to the risks of their behavior.

"Education has been proven the best method of changing people's behaviors. If we educate citizens to the dangers of alcohol consumption during pregnancy, then we can help to change their destructive behavior. Through mandating signs in public areas where alcohol is sold and consumed, we increase the scope of awareness of the general public.

"There are other advantages to posting warning signs. Annual cost estimates for Fetal Alcohol Syndrome and related conditions in the United States range from \$75 million to \$9.7 billion. When compared to the price of a sign posted alerting people to the possible hazards in consuming alcohol while pregnant, the difference is astounding. The saying goes 'An ounce of prevention is worth a pound of cure.'

"This is not to say that we will suddenly prevent any future cases of Fetal Alcohol Syndrome. That is not the intent of this bill. Its intent is simply to raise awareness in individuals that by consuming alcohol while pregnant, one puts the health and development of an unborn, helpless child at risk. The responsibility of government in this case is to pass legislation designed to better the lives of its citizens, even those yet to be born.

"My own wife is currently in her second trimester with our fourth child, so I am very familiar with the various risks that are posed by the actions of the mother while the child is in the womb. If we can expose as many people to a simple preventive treatment for a serious disorder, then we can help ensure that more babies are born with a better chance at a healthy life.

"For these reasons, Mr. Speaker, I support this bill which would require all businesses licensed for the sale and consumption of alcohol to post signs warning of the associated risks of said consumption to an unborn child. And I urge my colleagues to support its passage. 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. 1900, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

The Chair directed the Clerk to note that H.B. Nos. 2659, HD 2; 2710, HD 1; 2738, HD 1; 2837, HD 1; and 1900, HD 1 had passed Third Reading at 7:20 o'clock p.m.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 522-02) recommending that H.B. No. 2352, HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 2352, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

Representative Pendleton's written remarks are as follows:

"Mr. Speaker, I rise in strong support of House Bill number 2352, House Draft 1, relating to education. This bill defines the phrase 'school readiness' meaning 'young children are ready to have successful learning experiences in school when there is a positive interaction among the child's developmental characteristics, school practices, and family and community support.'

"Reports on child development have shown that the most growth and development occurs between birth and five years of age. Children must be intellectually and emotionally stimulated and nurtured in order to enhance their creative and curious natures. Studies have shown that children who are prepared to enter into formal education systems by 'quality

early childhood education environments and programs' perform better than children who did not have an opportunity to participate in these programs.

"As I see it, Mr. Speaker, children must be prepared for the numerous aspects of a classroom. There is the social climate of a classroom to take into account. Communication skills must be developed. Social and emotional development must be stressed and maintained. Preparation for the learning process is also of utmost importance. It must also be remembered that while it is important to develop and nurture a child's mind, it is also important to keep a child healthy and active to complement the mental development. We want children who are mentally, physically and emotionally healthy.

"There are ways for parents to prepare their children. All children benefit from being read to, even in the infant stage. They are exposed to language, even though they cannot understand the words. As toddlers, they benefit from looking at the pictures and hearing the words that go along with them. At the pre-school age, children can begin tactile stimulation by turning pages. They can start recognizing letters and begin the preliminary stages of one of the most important skills in the education process—reading. Simple exercises such as letting a child scribble with a crayon can be developed into precursory writing exercises and provide necessary tactile stimulation as well. Many toys are also on the market which provide development exercises to stimulate a child's mind.

"While it is the duty of parents to provide a stable, cultivating environment for their children, it is also helpful for the community to provide such an environment as well. The community should support and complement what parents do. Since the Good Beginnings Alliance was enacted in 1997, public and private institutions have joined together to create environments fostering positive early development. The community must come together to ensure that children's emotional, social, and physical needs are met, not just by parents but by the teachers and caregivers who support them. Their physical surroundings must be conducive to providing a safe learning environment; safe in a physical, emotional, and social sense.

"Mr. Speaker, my youngest daughter is three years old, and my wife and I are expecting our fourth child in June. My wife formerly served as a member of the State Board of Education. I am a former high school teacher. As parents and as former educators, we believe there is no substitute for readiness and preparation in entering any formal education system, not only the education system of the State of Hawaii. I personally believe it is our duty as parents to do all we can to prepare our youngsters. And it is our privilege as policy makers to support parents in this effort.

"So for these reasons, Mr. Speaker, I support House Bill 2352 which defines 'school readiness' and stresses the importance of early childhood education. I urge all my colleagues to support its passage. 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. 2352, 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 Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 523-02) recommending that H.B. No. 2514, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2514, entitled: "A BILL FOR AN ACT RELATING TO TATTOO ARTISTS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representatives Kanoho and Ahu Isa, for the Committee on Water and Land Use and the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 524-02) recommending that H.B. No. 2448, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2448, entitled: "A BILL FOR AN ACT RELATING TO THE HIGH TECHNOLOGY DEVELOPMENT CORPORATION," passed Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 525-02) recommending that H.B. No. 2556, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2556, entitled: "A BILL FOR AN ACT RELATING TO SECTION 13 OF ACT 15, THIRD SPECIAL SESSION LAWS OF HAWAII 2001," passed Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 526-02) recommending that H.B. No. 1093, pass Second Reading and be placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1093, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

Representative Gomes rose in support of the measure with reservations, stating:

"This bill is basically to bar campaign activities at Washington Place, and the language right now says simply that the Governor shall not allow Washington Place to be used for any events intended to solicit funds, etc. I think that rather than put this to the person, we ought to just put it to the place.

"I am not sure why it specifically says, "the Governor shall not." There are friends of the Governor, the spouse of the Governor, etc. Rather than putting it to a person, it should just be that there should be no fundraising at that place called Washington Place, and for that reason, I am 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. 1093, entitled: "A BILL FOR AN ACT RELATING TO THE USE OF WASHINGTON PLACE FOR CAMPAIGN ACTIVITIES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 527-02) recommending that H.B. No. 1999, pass Second Reading and be placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1999, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1999, entitled: "A BILL FOR AN ACT RELATING TO HUNTING," passed Second Reading and was placed on the calendar for Third Reading with Representative Thielen voting no, and Representatives Arakaki, Davis, Leong, Takai and Takumi being excused.

At 7:22 o'clock p.m., Representative M. Oshiro requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 7:22 o'clock p.m.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 528-02), recommending that H.C.R. No. 17, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 17, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE LEASE OF EASEMENT COVERING PORTION OF SUBMERGED LANDS AT MAUNALUA, OAHU, HAWAII, FOR MAINTENANCE OF THE HAWAII KAI MARINA ENTRANCE CHANNEL PURPOSES," was referred to the Committee on Finance with Representatives Abinsay, Arakaki, Chang, Davis, Kahikina, Schatz, Takai, Takamine and Takumi being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 529-02), recommending that H.C.R. No. 21, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 21, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE LEASE OF EASEMENT COVERING PORTION OF SUBMERGED LANDS AT MAUNALUA, HONOLULU, OAHU, FOR MAINTENANCE OF BREAKWATER PURPOSES," was referred to the Committee on Finance with Representatives Abinsay, Arakaki, Chang, Davis, Kahikina, Schatz, Takai, Takamine and Takumi being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 530-02), recommending that H.C.R. No. 18, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 18, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE LEASE OF EASEMENT COVERING PORTION OF

SUBMERGED LANDS AT LAHAINA, MAUI, HAWAII, FOR CONCRETE PIER AND DECK PURPOSES," was referred to the Committee on Finance with Representatives Abinsay, Arakaki, Chang, Davis, Kahikina, Schatz, Takai, Takamine and Takumi being excused.

Representative Saiki, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 531-02), recommending that H.C.R. No. 29, as amended in HD 1, be referred to the Committee on Consumer Protection and Commerce.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.C.R. No. 29, HD 1, be referred to the Committee on Consumer Protection and Commerce, seconded by Representative Lee.

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

"I would just like to note that while I support the passage of this resolution, I would have much rather preferred that we pass a bill and a statute. Small business is screaming out for reform of the Prepaid Healthcare Act now, not to wait for a taskforce. If a taskforce is all I can get, I will take it."

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

"Thank you Mr. Speaker, I rise in support with some strong reservations. Aside from the fact that all this resolution does is create another task force for yet another study, for an issue that does not need more studying, but rather needs action. This resolution has some flaws as presently drafted. First, the resolution resolves that at least one representative from each of the following interests be appointed as a member of the Prepaid Healthcare Act taskforce. It has all kinds of different groups, however there is no appointing authority provided in the resolution. How can such a taskforce be appointed if there is no one in the position to appoint the members? It is not clear as presently drafted, and I am sure that can be cleaned up in the next committee.

"Secondly, the Hawaii Prepaid Healthcare Act is not only a State concern, but also a federal concern. The Hawaii Prepaid Healthcare Act only exists today because of a federal exemption to ERISA that allows Hawaii to be the only state which such an Act in force. Yet this resolution does not see fit to include the Hawaii congressional delegation or the U.S. Department of Labor in its language. I think that should be addressed. I submit to you Mr. Speaker, and fellow members of this Body, that such an oversight, such a spurning of our federal partners in this issue, is an egregious error that could most assuredly come back to haunt us if it is not addressed.

"As the Representative from Kaneohe has said, there is no more pressing issue than the problems that small businesses have with the present Healthcare Act. I realize that it is a consequence that was not seen back in 1974, but the difference between what the employers paid in '94 and what they are paying today is so dramatic. It is probably the number one concern of small business in Hawaii. So I hope that we can do more than just create a taskforce. 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.C.R. No. 29, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE CONVENING OF A TASK FORCE TO EXAMINE THE HAWAII PREPAID HEALTH CARE ACT, CHAPTER 393, HAWAII REVISED STATUTES," was referred to the Committee on Consumer Protection and Commerce with Representatives Abinsay, Arakaki, Chang,

Davis, Kahikina, Schatz, Takai, Takamine and Takumi being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 532-02), recommending that H.R. No. 1, as amended in HD 1, be referred to the Committee on Education.

Representative M. Oshiro moved the report of the Committee be adopted and that H.R. No. 1, HD 1, be referred to the Committee on Education, seconded by Representative Lee.

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

"Mr. Speaker I am rising to speak in support of both resolutions which are companion resolutions, H.R. No. 1, and H.C.R. No. 3. I am not sure if members in the House are aware of the seriousness of a problem that is occurring in the U.S. and certainly in Hawaii. Approximately 15% of our children are on psychiatric drugs. Now there are those of us in the Legislature that are in their 70's. I would doubt that there were any students in their class that were on psychiatric drugs. I am in my 60's and there are some of us in here that are in that age bracket too. Frankly, there weren't any students in my schools that were on psychiatric drugs. So we've moved from that level to the present day where we have 15% of the children being prescribed these medications. Some of it is Ritalin, and some are other psychiatric drugs.

"There are professional organizations that have been very concerned about this. One is the American Academy of Child and Adolescent Psychiatry, The American Psychiatric Association, The American Academy of Pediatrics, and even the primary manufacturer of Ritalin. These two resolutions are asking the DOE and the DOH to study whether or not Attention Deficit Disorder and Attention Deficit Hyperactivity in Hawaii is excessively diagnosed, and if the drug like Ritalin and others are being excessively prescribed to children.

"This ADD and ADHD, which are all in our lexicon now, are manufactured labels. They are manufactured by the psychiatrists, but not based in sound medicine or sound medical reasons.

"I'd like to ask you all to think just for a minute, if you exhibit any of the following, and Mr. Speaker, I hope you will think too. Difficulty sustaining attention. Easily distracted. Shifts from one uncompleted activity to another. Lose things necessary for tasks. Interrupts or intrudes on others. Difficulty waiting in turn or groups. Blurts out answers to questions or talks excessively. If you display six out of these, of the full 12 symptoms, you are diagnosed with either ADD or ADHD.

"I stop to think of this. I mean, look at us in here. How many of us would have been an ADD or ADHD kid in school if we were behaving as we did then, or behaving as we are now. Something has gone very seriously wrong. I take a look at these lists of things too and I think of Bill Gates as he rocks back and forth on the podium when he is giving his speeches. Gates would have been diagnosed with this and given a drug, and we would not have our internet explosion at this point with all of our intellectual inventions that have occurred.

"I want to just do an aside Mr. Speaker. I am kind of a slow learner on this subject, and it wasn't until I began to read about it and began to ask some questions that I remembered back to when my oldest son was about 10 years old. He was not getting along the way the normal kids were in school. He wasn't a behavioral problem. He did not disrupt the classroom. He just wasn't going with the flow of the learning process. So the pediatrician recommended that he take, what it turns out

was a psychiatric drug. Well he was on it for a week, and he would come home from school with these deep, dark circles under his eyes. Fortunately, my husband had the wisdom that I lacked as new mother, and took a hold of the prescription and threw it in the trash. That was the end of that.

"It turned out that Dave was a gifted child and went on to be part of the Microsoft team that developed Windows 95. Had he been drugged, and drugged all the way through his school years, I don't think that result would have occurred.

"We did ask the DOH and DOE to look at the issue in 2001."

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

Representative Thielen continued, stating:

"We did ask DOH and DOE to look at the issue in 2001, but the focus of those resolutions was changed and they did not directly address the over-drugging of our youngsters, the 15% of our kids that are on psychiatric drugs.

"I want to give you just a few frightening statistics and I really ask you to listen to these and pay attention to these, especially those of you who are on the Education Committee where these resolutions next go. At least 8 million American children today are diagnosed with some form of psychiatric disorder requiring medication and, like I said, that is 15% of our children. Something is seriously wrong. There has been at least a 700% increase in the number of U.S. school children on psychiatric drugs in the last decade.

"The number of preschool children using stimulant medication for ADHD has increased significantly as well. A study published in the Journal of the American Medical Association last February found that psychotropic medication use tripled in preschool children ages 2 through 4 over a five year span. That is enough to make us all scared Mr. Speaker. These drugs have been consistently linked to dramatic episodes of violence in the schools.

"I imagine you have all read those reports of the shooting sprees that were done by students who have been on these psychiatric drugs. Research clearly shows the aggressive and injurious behavior towards self or others can be an effect of the drugs while taking them or during withdrawal.

"There is something that I just learned recently and it was rather startling. It is not generally known that the use of Ritalin or similar psychiatric drugs will preclude the child from ever joining the U.S. Military. Ritalin is classified as a Class II controlled substance along with morphine and other amphetamines. The military, if they know that you have been using these drugs, will not accept you. That is 15% of our youth who are ineligible for military service.

"The other thing that I think we need to look at is tie-in with the Felix situation, and whether or not we are inappropriately using drugs rather than other forms of better education methods. Physical activities, such as playgrounds with playground equipment, whether those are not a better means to have a child work off the excess energy or be able to be a better, healthier child.

"So Mr. Speaker, I think I would say to those who are in your 60s, those in your 70s, look back to what school was like when you were there. You did have some cut-ups in schools and probably a lot of those cut-ups are sitting right here. I think we need to look and say something is seriously wrong when we think we have to drug 15% of our children. No other place in the world does this occur.

"One last thing, the DEA has found a disproportionate link between drug addicts in the adult bracket and those who have been on drugs as youngsters. So there is a very direct link on that. Thank you, I am in support of the resolution."

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

Representative Hale continued, stating:

"I would like to add the 80s, as well as the 60s and 70s. And in my day, they used the strap in the principal's office for the attention deficit."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.R. No. 1, HD 1, entitled: "HOUSE RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH AND THE DEPARTMENT OF EDUCATION TO JOINTLY DETERMINE WHETHER THE DIAGNOSIS OF CHILDREN WITH ATTENTION DEFICIT DISORDER OR ATTENTION DEFICIT HYPERACTIVITY DISORDER IN HAWAII HAS BEEN EXCESSIVE, WHETHER HAWAII'S CHILDREN ARE BEING SUBJECTED TO EXCESSIVE USE OF PSYCHIATRIC DRUGS TO MODIFY THEIR BEHAVIOR, AND TO RESEARCH, EXAMINE, AND RECOMMEND NON-DRUG ALTERNATIVES," was referred to the Committee on Education with Representatives Abinsay, Arakaki, Chang, Davis, Kahikina, Schatz, Takai, Takamine and Takumi being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 533-02), recommending that H.C.R. No. 3, as amended in HD 1, be referred to the Committee on Education.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 3, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH AND THE DEPARTMENT OF EDUCATION TO JOINTLY DETERMINE WHETHER THE DIAGNOSIS OF CHILDREN WITH ATTENTION DEFICIT DISORDER OR ATTENTION DEFICIT HYPERACTIVITY DISORDER IN HAWAII HAS BEEN EXCESSIVE, WHETHER HAWAII'S CHILDREN ARE BEING SUBJECTED TO EXCESSIVE USE OF PSYCHIATRIC DRUGS TO MODIFY THEIR BEHAVIOR, AND TO RESEARCH, EXAMINE, AND RECOMMEND NON-DRUG ALTERNATIVES," was referred to the Committee on Education with Representatives Abinsay, Arakaki, Chang, Davis, Kahikina, Schatz, Takai, Takamine and Takumi being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 534-02), recommending that H.R. No. 2, as amended in HD 1, be referred to the Committee on Education.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.R. No. 2, HD 1, entitled: "HOUSE RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH, IN COOPERATION WITH THE DEPARTMENT OF EDUCATION AND THE AMERICAN CANCER SOCIETY, TO ESTABLISH A SUN PROTECTION PROGRAM TO EDUCATE ELEMENTARY SCHOOL CHILDREN AND THEIR PARENTS," was referred to the Committee on Education with Representatives Abinsay,

Arakaki, Chang, Davis, Kahikina, Schatz, Takai, Takamine and Takumi being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 535-02), recommending that H.C.R. No. 4, as amended in HD 1, be referred to the Committee on Education.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 4, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH, IN COOPERATION WITH THE DEPARTMENT OF EDUCATION AND THE AMERICAN CANCER SOCIETY, TO ESTABLISH A SUN PROTECTION PROGRAM TO EDUCATE ELEMENTARY SCHOOL CHILDREN AND THEIR PARENTS," was referred to the Committee on Education with Representatives Abinsay, Arakaki, Chang, Davis, Kahikina, Schatz, Takai, Takamine and Takumi being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 536-02) recommending that H.R. No. 6, be adopted.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.R. No. 6 be adopted, seconded by Representative Lee.

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

"I just have a concern, in reading some of these resolutions, they are fine and noble, but it seems that we task the DOH and DOE with so many duties and charges as it is already, and this just adds to their burden without really going to the issue of education first. I stand in support, anyway, with just that concern that this may be looked at as somewhat of a mandate or a request to spend additional time on additional issues. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.R. No. 6, entitled: "HOUSE RESOLUTION ENCOURAGING SCHOOLS IN HAWAII TO ENCOURAGE CALCIUM INTAKE, ESPECIALLY IN YOUNG WOMEN, AND SUPPORTING EDUCATION AND AWARENESS OF CALCIUM DEFICIENCY," was adopted with Representatives Arakaki, Chang, Davis, Kahikina, Schatz, Takai and Takumi being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 537-02) recommending that H.C.R. No. 11, be adopted.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 11, entitled: "HOUSE CONCURRENT RESOLUTION ENCOURAGING SCHOOLS IN HAWAII TO ENCOURAGE CALCIUM INTAKE, ESPECIALLY IN YOUNG WOMEN, AND SUPPORTING EDUCATION AND AWARENESS OF CALCIUM DEFICIENCY," was adopted with Representatives Arakaki, Chang, Davis, Kahikina, Schatz, Takai and Takumi being excused.

THIRD READING

H.B. No. 2537:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2537, entitled: "A BILL FOR AN ACT RELATING TO AQUATIC RESOURCES," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

H.B. No. 2832, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2832, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TIME SHARING PLANS," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

H.B. No. 2613:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2613, entitled: "A BILL FOR AN ACT RELATING TO STATUTORY REVISION: AMENDING, REENACTING, OR REPEALING VARIOUS PROVISIONS OF THE HAWAII REVISED STATUTES AND THE SESSION LAWS OF HAWAII FOR THE PURPOSE OF CORRECTING ERRORS AND REFERENCES, CLARIFYING LANGUAGE, AND DELETING OBSOLETE OR UNNECESSARY PROVISIONS," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

H.B. No. 2298, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2298, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

H.B. No. 2387, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2387, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PENAL CODE," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

H.B. No. 2426, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2426, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMES AGAINST CHILDREN," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

H.B. No. 2427, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2427, HD 1, entitled: "A BILL FOR AN ACT RELATING TO VICTIMS OF CRIMES," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

H.B. No. 1864, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 1864, HD 1, entitled: "A BILL FOR AN ACT RELATING TO VISITATION," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

H.B. No. 2307, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2307, HD 1, entitled:

"A BILL FOR AN ACT RELATING TO ELECTRONIC TRANSACTIONS," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

H.B. No. 2844, HD 1:

Representative M. Oshiro moved that H.B. No. 2844, HD 1, pass Third Reading, seconded by Representative Lee.

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

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

"HB 2844 HD1 places a cap on the aggregate amount of funds any individual or entity can contribute to all candidates during an election cycle. It further prohibits campaign contributions from unions and corporations, and forbids candidates from accepting contributions from those persons known to be state or county government contractors.

"It also prohibits those candidates running in special elections from receiving public funding. And it requires those candidates seeking matching public funding for the campaigns during the regular election cycle to solicit contributions from State residents, and not look across the Pacific in either direction.

"Finally, this measure is a marked departure from other campaign finance laws because it actually has some significant bite that accompanies the bark. Those persons who knowingly or intentionally seek to circumvent campaign financing law or deceive the Campaign Spending Commission by filing a false report will be guilty of a class C felony.

"Speaking as someone who has long been a proponent of campaign finance reform, I personally feel that while HB 2844 HD1 is long overdue, its passage is nonetheless very welcome. I'm proud to strongly support this measure."

The motion was put to vote by the Chair and carried and H.B. No. 2844, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAMPAIGN SPENDING," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

H.B. No. 1823, HD 1:

Representative M. Oshiro moved that H.B. No. 1823, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Despite my opposition, there are features in this bill that I definitely like, however I am voting no to point out the hypocrisy in here. First of all, this measure exempts itself from paying the GET and then raises a tax on several of its own agencies and special funds. As you all know, while I generally vote yes on tax exemptions, this one may be a first. H.B. 1823, H.D. 1 grants GET exemption for all items and services, all goods and services, sold to the State. That includes all capital improvement projects, CIP projects, and that is 4% on hundreds of millions, maybe billions of dollars.

"Yes I know the tax is assessed on those who sell those services, if exempt, they will pass it on to the State so the State will not have to pay it. It saves them, or is it us, a lot of money. The vendor or the contractor who saves the money will then have to report 4% less gross income, so therefore they will have less tax to pay. It is a win-win situation for the State and the

vendors. I ask myself, why exempt ourselves? Why not exempt medical services for senior citizens? Why not exempt residential rent for the working poor? Why not exempt grocery food for Hawaii's family? Why do we continue to charge the counties 4%? Why help ourselves and not the people we are suppose to look after? We're doing it because of the tragic events of September 11, 2001 that have had lasting economic repercussions in Hawaii. Breaks my heart. Is the State government the only entity that has suffered from the economic downturn?

"The Minority on this side has always been calling for tax cuts for the people. This bill is a tax cut for big government. The second half of this bill taxes government agencies in special funds. It also removes the 5% exemption from about 31 Funds that previously had not been charged this cost. Usually there is a 5% charge for handling costs for central services, for DAG's handling of the funds. Then on the second part of this section, it raises the tax on all funds.

"Technically the bill has a blank percentage, but a previous version called for a 7% assessment on all Funds. Some of these Funds include, I will read maybe half of them: Special Out of School Time Instructional Program Fund; School Cafeteria Special Funds; special funds of the University of Hawaii; State Educational Improvement Special Fund; Housing Loan Program Revenue Bonds Special Fund; Housing Project Bonds Special Fund; Domestic Violence Prevention Special Fund; Spouse and Child Abuse Special Account; Spouse and Child Abuse Special Account under a different section; Funds of the Employees' Retirements System; Unemployment Compensation Fund; Hawaii Health Systems Corporation special funds; Hawaii Tobacco Settlement Special Fund. Like I said that is only about half of them.

"There were several people who testified against this measure and I believe it was the Department of Taxation, the Department of Commerce and Consumer Affairs, the Department of Health, the Judiciary, the Department of Land and Natural Resources, the PUC."

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

Representative Marumoto continued, stating:

"My thanks to the Representative from Aina Haina. Also the Housing and Community Development Corporation of Hawaii, the Hawaii Hurricane Relief Fund, the Hawaii Tourism Authority, the Hawaii Community Development Authority, and the Aloha Tower Corporation. Need I say more? Please join these entities in opposing this measure. Mahalo."

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

The motion was put to vote by the Chair and carried and H.B. No. 1823, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT SERVICES," passed Third Reading by a vote of 39 ayes to 10 noes, with Representatives Auwae, Djou, Fox, Halford, Leong, Marumoto, Meyer, Moses, Ontai and Stonebraker voting no, and with Representatives Arakaki and Davis being excused.

H.B. No. 2821, HD 1:

Representative M. Oshiro moved that H.B. No. 2821, HD 1, pass Third Reading, seconded by Representative Lee.

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

"I think this is an odd bill at an odd time. I would particularly direct the members' attention to the effective date of this measure, which is December 31, 2002. The intent of this is to do away with, as I understand it, deputy and assistant deputy positions around State government, other than UH. If it is an attempt at government efficiency and saving money and what not, it would seem to me that it ought to be enacted sooner than later. It is odd that it doesn't seem to jive with any fiscal year.

"Again if we are going to try to save some money or delete some positions to address our budget concerns, it would seem that we would want to have this effective upon enactment, or upon signature by the Governor, if he did not veto it. For those reasons, I have some reservations."

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

Representative Meyer's written remarks are as follows:

"Mr. Speaker, I rise in support of HB 2821, HD1. The objective of this bill is to streamline state government operations by abolishing the position of deputy or assistant to the head of any department of the State, except the University of Hawaii and the Department of Education. Well, I must say, it's about time one of the bills before us does something about the economy, expediency, and accountability in government.

"Mr. Speaker, in a time of major budget concerns for our State, I welcome this small bit of fiscal sanity.

"I guess that the only concern I have about this Act at all is why, under our present budget crisis, it takes effect on December 31, 2002 rather than immediately or at least by July 1, 2002."

The motion was put to vote by the Chair and carried and H.B. No. 2821, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE DEPARTMENTS," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

H.B. No. 2726, HD 1:

Representative M. Oshiro moved that H.B. No. 2726, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Again it looks more like a superficial attempt to reorganize and create some efficiencies in government. I am concerned because there is one department that it seems to be a 'cash cow' and provides fertile ground for redistribution of resources, and that is called the Department of Business, Economic Development, and Tourism. Rather than going after that Department, we seem to be going after the one agency and Department that we need the most at this point and that is the Department of Agriculture.

"If there is one sector of our economy that has done well and has great potential to do even better, it is in agriculture and diversified agriculture. I think it is the wrong message to be sending to the industry even if it might be a small group of people that might be affected by this in terms of the government itself.

"I think this Body wants to send this very, very strong and aggressive message that agriculture is here to stay; that it is a viable industry and that it is doing well and will do better with the appropriate encouragement. I think this is the wrong message at the wrong time.

"Also we've already tried. Apparently, the promotional aspects for agriculture are going to be shifted to the Department of Business, Economic Development, and Tourism, and they have a pretty 'sketchy' track record already, as it is. A lot of promotional efforts that they do generally, and it is my understanding that we've tried agriculture promotion, and DBEDT has failed pretty miserably. There is also a concern because DCCA will be the regulatory body for agriculture, and apparently they are going to need more resources and materials to 'ramp up' to do that job.

"Anyway, there is concern all over the place. I would redirect the Body's attention to DBEDT. Evidently there is lots of money, and lots of positions there to redistribute, and I think that is where we need to be looking. Thank you."

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

"I rise in strong support of this measure. For all those people here who believe in the need to 'rightsize' government, or shrink the size government, or shrink the cost of government, I would hope that they would stand in strong support of this measure. Essentially, what this does is reduce from 18 departments down to 15 departments.

"If one would read the bill one would find out that none of the services, none of the functions of those departments are lost. They retain and they are basically consolidated into other agencies that can provide the services to the constituencies. So basically, if you are for smaller government, more efficient government, this is the bill to stand in strong support for. Thank you."

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

"Thank you Mr. Speaker, I am in favor of the bill. I sort of don't appreciate the lecture that we were just given. This is a phony reform. Most of the positions will still remain on the books and we really miss an opportunity in the case of DHRD, because we already have personnel officers in all the departments. We could have easily seen a much more significant reduction in positions.

"To make it clear, I do not favor the elimination of any warm bodies. We've got qualified people who could be moved to other government jobs. Positions could have been limited on a much larger scale. This bill is kind of a tiny reform when a bigger one is in order."

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

"I think I too have reservations, however I would vote to move this bill out to go over to the Senate, and get amended and expanded in this bill. Then, we can get the Governor's people to come in and further expand State reorganizations that we could do.

"For example, the Department of Labor was the first department to completely reorganize and you will find the Workforce Development Division being developed. They have consolidated many, many fragmented programs under one division. They have the enforcement agencies, the Hour and Wages Division, your OSHA, your Workers Compensation for

example, and they have administrative agencies such as the Office of Community Services that do work with immigrants, the OEOs for the poor and the elderly, and also the Civil Rights Commission, as an example of that Department being consolidated with DHRD where they do personnel classification, recruitment, and training. That is two distinct functions and to have consolidated, I am not too sure how much money we are saving. But beside that though, we still need to take a look at State reorganization.

"I think as we keep this bill alive, as we get further input and data from people concerned with this reorganization, I think you could come up with a good bill. So on that basis I would say let's keep this bill alive, get the Senate to pass it, and go on into conference and we can come up with a good bill. Thank you."

Representative Moses rose to disclose a possible conflict of interest, stating:

"I am a user of agriculture products," and the Chair ruled, "no conflict."

Representative Moses continued in support with reservations, stating:

"First of all, let me state for the record that I am very much in favor of government reorganization, if it is true reorganization and we actually eliminate the size or reduce the size of government. In this case, I am a little worried. I wasn't in some of these hearings, but the Department of Agriculture seems to be suffering quite a bit under this. I am just looking at the committee report. The GET, or Government Efficiency Team was the only one that submitted testimony supporting the bill. The College of Tropical Agriculture and Human Resources, the Hawaii Government Employees Association, the Hawaii Farm Bureau Federation, the Hawaii Agriculture Research Center, the Pineapple Growers Association of Hawaii, a member of the Board of Agriculture, the Hawaii Alliance for Responsible Technology and Science, Alluvion Inc., the Big Island Farm Bureau, the Maui County Farm Bureau, the Kauai County Farm Bureau, the North Shore Farms, the Waialua Farmers Cooperative opposed the measure. Budget and Finance and DHRD, of course, offered comments. It seems to be a lot of opposition and these are the people in the business. Maybe they know something that we missed. They are saying that this is going to hurt them. Thank you Mr. Speaker."

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

"This proposal doesn't come with any thoughtful analysis. While on the surface it may seem like a consolidation necessarily means savings or efficiencies, it doesn't necessarily follow, unless there is a good plan. The Administration doesn't do any in-depth audits, fiscal audits, or management audits of its departments or programs or divisions. They have no idea, really, what the strengths or weaknesses of the process are. That information, since it is not being acquired is not available to us either.

"We have no idea what we are substituting from and where we are going to? It is just simply reshuffling with really no thoughtful analysis provided us to make a responsible vote on this measure. For those reasons, I am voting no."

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

"Although the Majority Leader did cover it somewhat well, I wanted to go over the changes of what the bill does accomplish.

What it does is it does combine the Department of Human Resource Development with the Department of Labor and Industrial Relations by transferring all powers, functions, duties, and personnel of DHRD to DLIR. It also transfers the regulatory functions of the Department of Agriculture to DCCA. It also transfers the promotional duties of the Department of Agriculture to DBEDT and it combines the Department of Accounting and General Services with the Department of Budget and Finance. Mr. Speaker, through the consolidation efforts, not only do you obtain increased efficiencies, but through the centralization of the execution of the functions, greater accountability.

"With all the talk that we've heard about 'rightsizing' and 'downsizing' government, I find the comments made earlier on this bill rather interesting. What I really want to do, Mr. Speaker, is thank the Leadership because that is how this bill was introduced, and it is the only vehicle that allows us to carry on this discussion about making structural changes in government. Thank you very much Mr. Speaker."

Representative Yoshinaga rose to speak in support with reservations, stating:

"I'd like to briefly state my reservations. Thank you Mr. Speaker. My reservations are not with the intentions of this bill, which is to reorganize certain departments. I have supported that since I was elected in 1994. However, in coming to this Body, I think we still need to reach some inclusion of the stakeholders, whereupon we make decisions for their livelihood, as well as their work processes.

"This bill, I do not believe included the stakeholders in the process. For those reasons I think, that it may be not supported by the very people that it would attempt to need their support, if we are going to hold public servants accountable. For those reasons Mr. Speaker, I am in reservations of the success of this measure. However, I do support the fact that we do need to take a look at how we can modernize State government. Thank you."

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

"Thank you Mr. Speaker. I am in support with strong reservations. I think it is new to us, especially our Majority members, about the concerns put out by some of the Minority Members. They have the same concerns and they share their concerns Mr. Speaker. I would just like to echo, and I emphasize again, the importance that making sure that as we look at the language of this bill as currently written, I would like to believe that based on the explanation given by the Chairman of the Finance Committee, that this is a work in progress. I'd like to trust him in this area. I'd like to make sure that this issue is going to be followed up on.

"Indeed there are so many concerns about this bill. I would like to mention them again, as far as what I have mentioned in our caucuses. But because of the assurance given to me during our last caucus Mr. Speaker, I would like to believe that this is a bill that is going to address reorganization, really 'downsizing' government and I don't have any qualms with that.

"As Chair of the Agriculture Committee, I still believe that this is a bill that needs to be followed up on and I would want to make sure that the concerns that I have given will be addressed. So with that, I have taken some of the concerns given by our colleagues of the Minority and I will make sure that I am going to update them if they need to be updated, when it comes to the problems of this bill. With that, I am supporting this bill at this point, but with strong reservations. Thank you."

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

"I rise in support with strong reservations. Mr. Speaker, first of all, I really want to say thank you to the Leadership in providing the courage in providing this measure and looking at how to 'rightsized' government. But Mr. Speaker, my reservation is really the message that we are providing out there, especially for our constituents that I believe, are the backbone of Hawaii. Those are our farmers, fishermen, and those in agriculture. For those reasons, especially for the area that I am representing, Nanakuli and Waianae, where I have vowed and promised to the farmers that I would look after their interest and their needs. I believe that they pour into the Waianae area, as far as the economy. So for those reasons, I wanted to express my reservations."

Representative Halford rose to respond, stating:

"I am still in opposition. In all the discussion so far, still, it hasn't been shown how this makes government better or more efficient. There was some discussion, maybe, about being smaller, but I think a more reasonable approach may be to look at how to make government better or more efficient. If this bill means diminished commitment to agriculture, that means we would be giving less. In other words, government would be smaller in this regard. It does not bode well for our long-standing commitment or spoken commitment, anyway, to diversify our economy and to manage our land well, and keep open spaces, etc. Thank you."

The motion was put to vote by the Chair and carried and H.B. No. 2726, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE REORGANIZATION OF STATE GOVERNMENT," passed Third Reading by a vote of 46 ayes to 3 noes, with Representatives Auwae, Bukoski and Halford voting no, and with Representatives Arakaki and Davis being excused.

The Chair directed the Clerk to note that H.B. Nos. 2537; 2832 HD 1; 2613; 2298, HD 1; 2387, HD 1; 2426, HD 1; 2427, HD 1; 1864, HD 1; 2307, HD 1; 2844, HD 1; 1823, HD 1; 2821, HD 1; and 2726, HD 1 had passed Third Reading at 8:02 o'clock p.m.

INTRODUCTION OF RESOLUTIONS

By unanimous consent, the following resolutions (H.R. Nos. 22 through 24) and concurrent resolutions (H.C.R. Nos. 39 through 42) were referred to Printing and further action was deferred:

H.R. No. 22, entitled: "HOUSE RESOLUTION REQUESTING THE STATE ATTORNEY GENERAL, THE UNITED STATES DEPARTMENT OF JUSTICE, AND HAWAII'S CONGRESSIONAL DELEGATION TO CLOSELY REVIEW THE PROPOSED MERGER OF HAWAIIAN AND ALOHA AIRLINES," was jointly offered by Representatives Hiraki and Chang.

H.R. No. 23, entitled: "HOUSE RESOLUTION REQUESTING THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS TO STUDY AND DEVELOP LEGISLATION FOR THE REGULATION OF MANUFACTURED HOUSING IN HAWAII," was offered by Representative Kahikina.

H.R. No. 24, entitled: "HOUSE RESOLUTION REQUESTING A REVIEW OF THE PERFORMANCE INFORMATION PURCHASE SYSTEM," was jointly offered by Representatives Magaoay, Espero, Abinsay,

Yonamine, Cabrerros, Luke, Ahu Isa, Ito, Nakasone, Takamine, Suzuki and Case.

H.C.R. No. 39, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE STATE ATTORNEY GENERAL, THE UNITED STATES DEPARTMENT OF JUSTICE, AND HAWAII'S CONGRESSIONAL DELEGATION TO CLOSELY REVIEW THE PROPOSED MERGER OF HAWAIIAN AND ALOHA AIRLINES," was jointly offered by Representatives Hiraki and Chang.

H.C.R. No. 40, entitled: "HOUSE CONCURRENT RESOLUTION URGING HAWAII'S CONGRESSIONAL DELEGATION TO SUPPORT AN AMENDMENT TO THE CABLE ACT OF 1992 RELATING TO "MUST-CARRY" LEGISLATION," was offered by Representative Ahu Isa.

H.C.R. No. 41, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS TO STUDY AND DEVELOP LEGISLATION FOR THE REGULATION OF MANUFACTURED HOUSING IN HAWAII," was offered by Representative Kahikina.

H.C.R. No. 42, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A REVIEW OF THE PERFORMANCE INFORMATION PURCHASE SYSTEM," was jointly offered by Representatives Magaoay, Espero, Abinsay, Yonamine, Cabrerros, Luke, Ahu Isa, Ito, Nakasone, Takamine, Suzuki and Case.

ANNOUNCEMENTS

Representative Morita for the Committee on Energy and Environmental Protection requested a waiver of the 48-hour hearing notice requirement for the purposes of decision making on H.B. No. 2333, Relating to Gasoline Dealers, and the Chair "so ordered."

Representative Morita then announced that the notice for H.B. No. 2333 was posted yesterday, but did not make the 48-hour requirement. Decision making for the Committee on Energy and Environmental Protection, and the Committee on Consumer Protection and Commerce is set for March 1st, at 10:00 a.m. in Room 312.

Representative Kahikina: "Mr. Speaker, there is a young man's birthday today, and he makes 'eleven-teen.' We would like to wish Representative Abinsay a happy birthday."

Representative Lee announced that there would be Majority Caucus tomorrow at 2:00 p.m. in the caucus room.

ADJOURNMENT

At 8:04 o'clock p.m. on motion by Representative Lee, seconded by Representative Djou and carried, the House of Representatives adjourned until 3:00 o'clock p.m., tomorrow, Friday, March 1, 2002. (Representatives Arakaki and Davis were excused.)

TWENTY-FIFTH DAY

Friday, March 1, 2002

The House of Representatives of the Twenty-First Legislature of the State of Hawaii, Regular Session of 2002, convened at 3:41 o'clock p.m., with the Speaker presiding.

The invocation was delivered in song by Representative Michael Puamamo Kahikina, after which the Roll was called showing all members present with the exception of Representatives Arakaki, Davis and McDermott, who were 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

The following message from the Governor (Gov. Msg. No. 204) was received and announced by the Clerk and was placed on file:

Gov. Msg. No. 204, transmitting the report, Statistics of Hawaii Agriculture 2000, a cooperative between the State and US Departments of Agriculture.

ORDER OF THE DAY

STANDING COMMITTEE REPORTS

The Chair announced to the Body that Stand. Com. Rep. No. 538-02 and H.B. 2491, HD 1; and Stand. Com. Rep. No 539-02 and H.B. 2487, HD 1 would be discussed concurrently.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented two reports:

(Stand. Com. Rep. No. 538-02) recommending that H.B. No. 2491, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading; and

(Stand. Com. Rep. No. 539-02) recommending that H.B. No. 2487, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading

Representative M. Oshiro moved that the reports of the Committee be adopted and that H.B. No. 2491, HD 1, pass Second Reading and be placed on the calendar for Third Reading; and H.B. 2487, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

The Chair addressed the Body, stating:

"Members, is there any discussion on Standing Committee Reports No. 538-02 and 539-02 which deal with the same issue?"

Representative Pendleton rose to speak in opposition to both measures, stating:

"Mr. Speaker, one measure has to do with a constitutional amendment, the language of which would read that the legislature shall have the power to allow terminally ill adult patients to obtain physician's prescriptions for drugs to end life. I'd like to begin by saying that I think the intentions of the bill are good, are benevolent. I think there is no question that the bill is being introduced from motives of compassion. The

testimony is often moving and tear-filled, but my opposition has grown from carefully reflecting on this issue and thinking about the trade-offs, and the pros and cons. I don't find this an easy 'black and white' issue. I find it falling in those gray areas, where we try to do what is best, not just for us personally, but for the State and future generations.

"Mr. Speaker, the issue of euthanasia and end of life care has come before this Body a number of times, not just this year. In fact, way back in 1999, there were no less than 15 measures introduced in the House and the Senate. Discussion picked up basically on the May 1998 Blue Ribbon Panel on Living and Dying with Dignity, where a number of recommendations were offered. Two of the more provocative recommendations of that Blue Ribbon Panel had to do with endorsing physician-assisted suicide and physician-assisted death.

"However benevolent and well intentioned, the motives, I believe the Legislature should be cautious when it comes to changing the current laws in ways which would authorize physicians to affect or otherwise bring about a patient's death through physician-assisted suicide, or physician-assisted death or euthanasia. Whatever term that they choose to use on this particular procedure Mr. Speaker, the end is the same, and the end is death.

"Here, this amendment seeks to narrowly define what the physician's role would be. Assuming this were to become an amendment approved by the people, assuming there would be subsequent legislation, statutory authority following up in this area consistent with this constitutional amendment, physicians will be able to prescribe drugs and that would end his or her involvement in the death of another person. I haven't seen any testimony on this issue by the Hawaii Medical Association but I know that in the past they have made it clear that the physician's job is to heal and to relieve the suffering of the patient, not to be an active assistant in ending life.

"I think what we need to do, instead of focusing on the ending a life when there is pain and discomfort and difficult times is, we need to look at the whole host of available palliative care and ways to manage pain. The Legislature should not prematurely condone physician assisted suicide without first looking at all the options available. In the past the Hawaii Medical Association has opposed this. I would defer to physicians who feel that they would not only feel uncomfortable, but that would be inappropriate and perhaps even against their medical oath to be involved in this.

"There are alternative pain management methods. There are hospice care techniques. And there are palliative measures. We can look at the suggestions of a whole host of medical professionals. If we go down this road Mr. Speaker, we would transform the right to decide what type of medical treatment into a far broader right to control the timing and the manner of death. Individuals, yes, have autonomy but having physicians use death as the means to handle pain should not be our priority. Public policy and social responsibility compels us to look at the broader implications.

"In other jurisdictions, for example, the Netherlands or Holland, years and years ago, they went down this path. They didn't do it in one fell swoop. They started out with small steps, as we have. Presently, today, Holland has active euthanasia even without the actual consent of the patient. So there are people who, for whatever reasons the state deems, qualify for being euthanized today in Holland."

Representative Schatz rose to yield his time, and the Chair "so ordered."

Representative Pendleton continued, stating:

"Thank you Mr. Speaker, I am going to try to wrap this up. The point of speaking about Holland is that we are a long way from there. But the point is, I don't think decades ago they for saw the ultimate outcome that there would be people actively euthanized without their expressed consent. That is what Holland does today, but it started decades ago with a bill and measure similar to this. I don't want to broad-brush and say this will automatically be a slippery slope, but that is a real concern that we need to look at.

"I think what we need to do is focus on the medical technology, making sure we can do things to cope with pain and address those situations. Studies have shown that unmanaged pain and clinical depression are the two most significant factors, which lead some to contemplate suicide. Again that is unmanaged pain and clinical depression. What we need to first do, before moving into this direction is to do everything we can to address pain. Use whatever technology, create incentives, so that we can work on that front, hand in hand with science. Additionally, clinically depressed people contemplate suicide. We need to address depression and again, work partnering with the medical community on that front, before we ever go down this route.

"In closing Mr. Speaker, I object to this, not because I think that motives are bad or that there is ill will behind this, or that I have no compassion for those in difficult, difficult situations. But I am concerned about the door that is being opened. I am concerned about the long-range implications. I would hate to see two decades from now, where we allow active euthanasia like they do in Holland. I don't know what the future holds, but I do know that in some ways this parallels what they have done in the past. Again I want to oppose this measure and urge us to do everything that we can to work on the fronts of managing pain, providing hospice care, making sure that people who are in terminal cancer situations receive the best care possible. That we reach out in compassion and address that situation rather than killing them. So for those reasons, Mr. Speaker I oppose this measure."

Representative Moses rose to speak in opposition to both measures, stating:

"Many, many years ago my father suffered from emphysema and he struggled for many years with the disease and we saw it transgress until he had to walk around with oxygen all the time. Finally he couldn't move around on his own and stayed bed-ridden with oxygen. But he still lived many years in that condition. He never once asked to be put out of his misery, although you could see he was suffering. He did see many of his grandchildren grow and know him, and he knew them. But that is one story.

"Many, many years later in 1989 my doctors told me, and I had some of the best specialists in the military services, through all the services and in many hospitals, and in 1989, at the most, I had five years to live. I might have believed them. I've had to take medications, and I've had pain and suffering, but I am here today. I am sure that my colleagues really appreciate that fact. But I could have given up too.

"They offered me tons of medication; morphine, all the things that you hear about now, oxycodone, all of those things. I could have easily just taken a couple of extra ones and been over with it, but I am here. That is just another story, remember that was in '89 and I was given five years, so they evidently were wrong.

"In 1993, my mother who was then 88 was told by the doctors, and they told it in front of me, in fact. They actually told me with her listening, they said, 'You know your mother has lived a long and productive life. It is time to let her go.' That was in 1993. In about three months, my mother will be 97 years old. So again, the doctors were wrong.

"My point is Mr. Speaker, they are not gods, and they are only practicing medicine. They are practicing it on us; kind of like attorneys. If we have this kind of law, it will be very easy for them to convince people, that they are going to get worse. It is going to be painful, and you are going to be miserable. Why don't you just end it? You don't know what is going to happen in the future. Who knows? Maybe someday they can cure some of these diseases. We don't know that. But if we give up and then we go down that slippery slope, one of these days I can envision: 'You know what? You've reached the ripe old age of 45 and we can't afford your retirement, so we want you to end it now. In fact, we won't even leave the choice up to you. It is time for you to go.' And they could do that. We don't know what they are going to do in the future.

"We keep hearing about the population growing, and we can't sustain the people that we have. The earth can't bear it. Let's just stop it all. Let you grow up a little bit and get rid of you before you get too old, before you become a medical burden or a burden on your poor children. It could happen Mr. Speaker, please don't let it happen."

Representative Rath rose to speak in opposition to both measures and asked that the remarks of Representative Pendleton be entered in the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Rath continued, stating:

"Back in the age of barbarians they used to have a saying. That saying was that 'human is the cheapest meat of all.' Of course we hope we've progressed a little farther since then, when human life meant little or nothing. I think we have been starting this backslide. We take a look at movies and sometimes it projects what is going to happen in the future. We saw in 1984 with Big Brother, George Orwell's movie about the government watching you, and now we have cameras everywhere and vans taking pictures. This reminds me of the movie *Soylent Green* where you had your duty to die. Hang on to your hats if this is where we are going to go. I don't think we are going to wind up with 'death centers,' but I do think that a lot of people, especially in our culture here in the islands, are going to feel a duty to die. I don't think that we should be making medical doctors 'death merchants.'"

Representative Leong rose to speak in opposition to both measures and asked that the remarks of Representative Pendleton be entered in the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative Leong continued, stating:

"When my children first went to medical school it was always a concern regarding what were they going to do. As the years went by, and now that they are full-fledged doctors, they still feel the same way; that this is not something they would go into. So I vote no on it. Thank you Mr. Speaker."

Representative Kahikina rose to speak in opposition to both measures, stating:

"Thank you Mr. Speaker, I rise in opposition on both measures. I do want to express to the proponents of this measure that I know what they are trying to achieve. I do have

friends that are terminally ill and they wish that they could have the choice of ending their lives.

"Mr. Speaker, my opposition to the bill is really simple. It is because it will not achieve its intended goal of providing death with dignity to those who choose to use it. In spite of the attempts to create safeguards, this bill will not prevent terminally ill patients from being coerced into choosing that by physician-assisted suicide. In fact, I was also thinking about how would it affect your life insurance, because after two years you can commit suicide, and you have a pay-off. So now, you can have your doctor assist you in that.

"My fear is that our *kupuna* will feel that it is their duty to die because they don't want to become financial burdens for their families. I've seen that in our community. With the cost of healthcare growing so fast I am fearful our older people will feel pressured to choose to die by using this kind of suicide. My greatest fear however is what has already been said. What will happen next?

"In the Netherlands where physicians routinely help their patients to die, one out of three of these people they kill don't clearly express a desire to die. The doctors just assume they would choose death if they could. While many say that it couldn't happen here, I can't in good conscience support even the possibility of opening the door to physician-assisted suicide in Hawaii. We would put ourselves on the same slippery slope taken by lawmakers in the Netherlands. No safeguard could guarantee that the same thing won't happen here. This is why groups that represent people with disabilities oppose death with dignity laws.

"Members of the medical profession also oppose death with dignity because it violates their oath to heal their patients and not harm them. As an ordained minister, not perfect in fact, probably the chief of all the sinners, I am going to vote against this measure and urge my colleagues to oppose this measure."

Representative Auwae rose in opposition to both measures and asked that the remarks of Representative Kahikina be entered in the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative Meyer rose to speak in opposition to both measures, stating:

"I don't want to be repetitive but I am very much concerned about elderly people feeling obliged to leave this earth to relieve their loved ones from the financial burden. And the fact that many people who, when they are older, get depressed. They are not themselves. On any given day they might be up or down. I just feel that we come into this world when God is ready for us to be born, and that is the way we leave."

Representative Espero rose and asked that the Clerk record an aye vote with reservations for him on Stand. Com. Rep. No. 539-02, and the Chair "so ordered."

Representative Abinsay rose to speak in support of both measures with reservations, stating:

"Thank you Mr. Speaker, on the same measures, both with reservations. I had a cousin who was only 41 years old when he developed cancer after a kidney transplant. A few days before he passed away, he was always telling me that he had wanted to fight the disease, but he did die happily around his family.

"Two years later, my own brother, who was only 53 years old, also developed cancer. He did want to kill himself or he wanted to pass away right away. We decided to talk to him

through the support of the volunteers of hospice, and he did have a very beautiful death around the family. I am trying to address these measures with reservations because of those situations. Thank you."

Representative Ontai rose and asked that the Clerk record a no vote for him on both measures, and the Chair "so ordered."

"Mr. Speaker, I rise to speak in support with certain reservations on both 538-02 and 539-02, with your indulgence. My mother was in a managed care facility and she was terminally ill with cancer. I am not sure what our family would have chosen had we been faced with this. There was tremendous financial pressure because there was no cure and she was just dissipating, and every day was costing, at that time 20 years ago, I think about \$1,200 a day.

"The health organization tried to, I believe, coerce my father into sending her home and he would have had to stick needles in her, and feed her intravenously, which for a regular person was impossible. I threatened to bring a lawsuit at that time, against that health maintenance organization. I don't know if I would be precluded from doing that today, considering all the changes with arbitration, etc. At any rate, the bottom line was that my mother lived for 6 months in that facility, and she did die with dignity, although in tremendous pain. I think that was still a way of closure for my family, and I would not like, by this bill, to force families to make that kind of economic choice."

Representative Magaoay rose in opposition to both measures and asked that the remarks of Representatives Kahikina and Pendleton be entered in the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Gomes rose to speak in opposition to both measures, stating:

"Thank you Mr. Speaker. I will save whatever remarks I may have for Third Reading, in event that this bill survives to Third Reading. I do considerate it an unfortunate and misleading bill."

Representative McDermott rose to speak in opposition to both measures and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative McDermott continued, stating:

Mr. Speaker, I would like to insert comments into the Journal on the substance of the issue, but what I'd like to talk about briefly is not the underlying issue, but the process. Mr. Speaker I've been here for six years, and on more than one occasion we have been lectured, or I have been lectured by my good friend, the Majority Leader, on the process. 'He did not go through the proper process.' 'The floor amendment is not the process.' 'We need to have a hearing on it. It is not the proper process.'

"There is a process that we follow in this Body. I have been told that by you, Mr. Speaker. This bill did not go to the Health Committee. This is a healthcare issue. It bypassed the Health Committee. That, I don't believe, is part of the proper process. It would be similar to if a bill on some other health related measure had skipped the Health Committee. The subject matter Committee was skipped, and I can't speak for the Chairman or anyone else, but I know we get that sheet that show all the referrals, and if we object, I guess, we should have the initiative to come see you.

"I was too busy tracking my own bills because they have such a short lifespan. I wanted to see them on print before they went away. The process Mr. Speaker, the process. It didn't go

to the Health Committee. It should have gone to the Health Committee. I believe the reason it didn't, is because this bill would have had a death with dignity in the Health Committee."

The Chair responded, stating:

"I believe the House has followed the process, as far as the referral process, because it was the leadership as a whole, the Majority Leadership, that decided what the referrals would be like. If there was any concern, there would be an opportunity for a re-referral by the subject committee for which there was no submittal of a re-referral request by the Health Committee Chair."

Representative McDermott submitted the following written remarks:

**SACRED CONGREGATION FOR THE DOCTRINE OF
THE FAITH
DECLARATION ON EUTHANASIA**

INTRODUCTION

The rights and values pertaining to the human person occupy an important place among the questions discussed today. In this regard, the Second Vatican Ecumenical Council solemnly reaffirmed the lofty dignity of the human person, and in a special way his or her right to life. The Council therefore condemned crimes against life "such as any type of murder, genocide, abortion, euthanasia, or willful suicide" (Pastoral Constitution *Gaudium et Spes*, no. 27). More recently, the Sacred Congregation for the Doctrine of the Faith has reminded all the faithful of Catholic teaching on procured abortion.[1] The Congregation now considers it opportune to set forth the Church's teaching on euthanasia. It is indeed true that, in this sphere of teaching, the recent Popes have explained the principles, and these retain their full force[2]; but the progress of medical science in recent years has brought to the fore new aspects of the question of euthanasia, and these aspects call for further elucidation on the ethical level. In modern society, in which even the fundamental values of human life are often called into question, cultural change exercises an influence upon the way of looking at suffering and death; moreover, medicine has increased its capacity to cure and to prolong life in particular circumstances, which sometime give rise to moral problems. Thus people living in this situation experience no little anxiety about the meaning of advanced old age and death. They also begin to wonder whether they have the right to obtain for themselves or their fellowmen an "easy death," which would shorten suffering and which seems to them more in harmony with human dignity. A number of Episcopal Conferences have raised questions on this subject with the Sacred Congregation for the Doctrine of the Faith. The Congregation, having sought the opinion of experts on the various aspects of euthanasia, now wishes to respond to the Bishops' questions with the present Declaration, in order to help them to give correct teaching to the faithful entrusted to their care, and to offer them elements for reflection that they can present to the civil authorities with regard to this very serious matter. The considerations set forth in the present document concern in the first place all those who place their faith and hope in Christ, who, through His life, death and resurrection, has given a new meaning to existence and especially to the death of the Christian, as St. Paul says: "If we live, we live to the Lord, and if we die, we die to the Lord" (*Rom. 14:8*; cf. *Phil. 1:20*). As for those who profess other religions, many will agree with us that faith in God the Creator, Provider and Lord of life - if they share this belief - confers a lofty dignity upon every human person and guarantees respect for him or her. It is hoped that this Declaration will meet with the approval of many people of good will, who, philosophical or ideological differences notwithstanding, have nevertheless a lively awareness of the rights of the human person. These rights

have often, in fact, been proclaimed in recent years through declarations issued by International Congresses[3]; and since it is a question here of fundamental rights inherent in every human person, it is obviously wrong to have recourse to arguments from political pluralism or religious freedom in order to deny the universal value of those rights.

I. THE VALUE OF HUMAN LIFE

Human life is the basis of all goods, and is the necessary source and condition of every human activity and of all society. Most people regard life as something sacred and hold that no one may dispose of it at will, but believers see in life something greater, namely, a gift of God's love, which they are called upon to preserve and make fruitful. And it is this latter consideration that gives rise to the following consequences:

1. No one can make an attempt on the life of an innocent person without opposing God's love for that person, without violating a fundamental right, and therefore without committing a crime of the utmost gravity.[4]

2. Everyone has the duty to lead his or her life in accordance with God's plan. That life is entrusted to the individual as a good that must bear fruit already here on earth, but that finds its full perfection only in eternal life.

3. Intentionally causing one's own death, or suicide, is therefore equally as wrong as murder; such an action on the part of a person is to be considered as a rejection of God's sovereignty and loving plan. Furthermore, suicide is also often a refusal of love for self, the denial of a natural instinct to live, a flight from the duties of justice and charity owed to one's neighbor, to various communities or to the whole of society - although, as is generally recognized, at times there are psychological factors present that can diminish responsibility or even completely remove it. However, one must clearly distinguish suicide from that sacrifice of one's life whereby for a higher cause, such as God's glory, the salvation of souls or the service of one's brethren, a person offers his or her own life or puts it in danger (cf. *Jn. 15:14*).

II. EUTHANASIA

In order that the question of euthanasia can be properly dealt with, it is first necessary to define the words used. Etymologically speaking, in ancient times *Euthanasia* meant an *easy death* without severe suffering. Today one no longer thinks of this original meaning of the word, but rather of some intervention of medicine whereby the suffering of sickness or of the final agony are reduced, sometimes also with the danger of suppressing life prematurely. Ultimately, the word *Euthanasia* is used in a more particular sense to mean "mercy killing," for the purpose of putting an end to extreme suffering, or having abnormal babies, the mentally ill or the incurably sick from the prolongation, perhaps for many years of a miserable life, which could impose too heavy a burden on their families or on society. It is, therefore, necessary to state clearly in what sense the word is used in the present document. By euthanasia is understood an action or an omission which of itself or by intention causes death, in order that all suffering may in this way be eliminated. Euthanasia's terms of reference, therefore, are to be found in the intention of the will and in the methods used. It is necessary to state firmly once more that nothing and no one can in any way permit the killing of an innocent human being, whether a fetus or an embryo, an infant or an adult, an old person, or one suffering from an incurable disease, or a person who is dying. Furthermore, no one is permitted to ask for this act of killing, either for himself or herself or for another person entrusted to his or her care, nor can he or she consent to it, either explicitly or implicitly. nor can any authority legitimately recommend or permit such an action. For it is a question of the violation of the divine law, an offense against the dignity of the human person, a crime against

life, and an attack on humanity. It may happen that, by reason of prolonged and barely tolerable pain, for deeply personal or other reasons, people may be led to believe that they can legitimately ask for death or obtain it for others. Although in these cases the guilt of the individual may be reduced or completely absent, nevertheless the error of judgment into which the conscience falls, perhaps in good faith, does not change the nature of this act of killing, which will always be in itself something to be rejected. The plea of gravely ill people who sometimes ask for death are not to be understood as implying a true desire for euthanasia; in fact, it is almost always a case of an anguished plea for help and love. What a sick person needs, besides medical care, is love, the human and supernatural warmth with which the sick person can and ought to be surrounded by all those close to him or her, parents and children, doctors and nurses.

III. THE MEANING OF SUFFERING FOR CHRISTIANS AND THE USE OF PAINKILLERS

Death does not always come in dramatic circumstances after barely tolerable sufferings. Nor do we have to think only of extreme cases. Numerous testimonies which confirm one another lead one to the conclusion that nature itself has made provision to render more bearable at the moment of death separations that would be terribly painful to a person in full health. Hence it is that a prolonged illness, advanced old age, or a state of loneliness or neglect can bring about psychological conditions that facilitate the acceptance of death. Nevertheless the fact remains that death, often preceded or accompanied by severe and prolonged suffering, is something which naturally causes people anguish. Physical suffering is certainly an unavoidable element of the human condition; on the biological level, it constitutes a warning of which no one denies the usefulness; but, since it affects the human psychological makeup, it often exceeds its own biological usefulness and so can become so severe as to cause the desire to remove it at any cost. According to Christian teaching, however, suffering, especially suffering during the last moments of life, has a special place in God's saving plan; it is in fact a sharing in Christ's passion and a union with the redeeming sacrifice which He offered in obedience to the Father's will. Therefore, one must not be surprised if some Christians prefer to moderate their use of painkillers, in order to accept voluntarily at least a part of their sufferings and thus associate themselves in a conscious way with the sufferings of Christ crucified (cf. *Mt. 27:34*). Nevertheless it would be imprudent to impose a heroic way of acting as a general rule. On the contrary, human and Christian prudence suggest for the majority of sick people the use of medicines capable of alleviating or suppressing pain, even though these may cause as a secondary effect semiconsciousness and reduced lucidity. As for those who are not in a state to express themselves, one can reasonably presume that they wish to take these painkillers, and have them administered according to the doctor's advice. But the intensive use of painkillers is not without difficulties, because the phenomenon of habituation generally makes it necessary to increase their dosage in order to maintain their efficacy. At this point it is fitting to recall a declaration by Pius XII, which retains its full force; in answer to a group of doctors who had put the question: "Is the suppression of pain and consciousness by the use of narcotics ... permitted by religion and morality to the doctor and the patient (even at the approach of death and if one foresees that the use of narcotics will shorten life)?" the Pope said: "If no other means exist, and if, in the given circumstances, this does not prevent the carrying out of other religious and moral duties: Yes." [5] In this case, of course, death is in no way intended or sought, even if the risk of it is reasonably taken; the intention is simply to relieve pain effectively, using for this purpose painkillers available to medicine. However, painkillers that cause unconsciousness need special consideration. For a person not only has to be able to satisfy his or her moral duties and family obligations; he or

she also has to prepare himself or herself with full consciousness for meeting Christ. Thus Pius XII warns: "It is not right to deprive the dying person of consciousness without a serious reason." [6]

IV. DUE PROPORTION IN THE USE OF REMEDIES

Today it is very important to protect, at the moment of death, both the dignity of the human person and the Christian concept of life, against a technological attitude that threatens to become an abuse. Thus some people speak of a "right to die," which is an expression that does not mean the right to procure death either by one's own hand or by means of someone else, as one pleases, but rather the right to die peacefully with human and Christian dignity. From this point of view, the use of therapeutic means can sometimes pose problems. In numerous cases, the complexity of the situation can be such as to cause doubts about the way ethical principles should be applied. In the final analysis, it pertains to the conscience either of the sick person, or of those qualified to speak in the sick person's name, or of the doctors, to decide, in the light of moral obligations and of the various aspects of the case. Everyone has the duty to care for his or her own health or to seek such care from others. Those whose task it is to care for the sick must do so conscientiously and administer the remedies that seem necessary or useful. However, is it necessary in all circumstances to have recourse to all possible remedies? In the past, moralists replied that one is never obliged to use "extraordinary" means. This reply, which as a principle still holds good, is perhaps less clear today, by reason of the imprecision of the term and the rapid progress made in the treatment of sickness. Thus some people prefer to speak of "proportionate" and "disproportionate" means. In any case, it will be possible to make a correct judgment as to the means by studying the type of treatment to be used, its degree of complexity or risk, its cost and the possibilities of using it, and comparing these elements with the result that can be expected, taking into account the state of the sick person and his or her physical and moral resources. In order to facilitate the application of these general principles, the following clarifications can be added: - If there are no other sufficient remedies, it is permitted, with the patient's consent, to have recourse to the means provided by the most advanced medical techniques, even if these means are still at the experimental stage and are not without a certain risk. By accepting them, the patient can even show generosity in the service of humanity. - It is also permitted, with the patient's consent, to interrupt these means, where the results fall short of expectations. But for such a decision to be made, account will have to be taken of the reasonable wishes of the patient and the patient's family, as also of the advice of the doctors who are specially competent in the matter. The latter may in particular judge that the investment in instruments and personnel is disproportionate to the results foreseen; they may also judge that the techniques applied impose on the patient strain or suffering out of proportion with the benefits which he or she may gain from such techniques. - It is also permissible to make do with the normal means that medicine can offer. Therefore one cannot impose on anyone the obligation to have recourse to a technique which is already in use but which carries a risk or is burdensome. Such a refusal is not the equivalent of suicide; on the contrary, it should be considered as an acceptance of the human condition, or a wish to avoid the application of a medical procedure disproportionate to the results that can be expected, or a desire not to impose excessive expense on the family or the community. - When inevitable death is imminent in spite of the means used, it is permitted in conscience to take the decision to refuse forms of treatment that would only secure a precarious and burdensome prolongation of life, so long as the normal care due to the sick person in similar cases is not interrupted. In such circumstances the doctor has no reason to reproach himself with failing to help the person in danger.

CONCLUSION

The norms contained in the present Declaration are inspired by a profound desire to service people in accordance with the plan of the Creator. Life is a gift of God, and on the other hand death is unavoidable; it is necessary, therefore, that we, without in any way hastening the hour of death, should be able to accept it with full responsibility and dignity. It is true that death marks the end of our earthly existence, but at the same time it opens the door to immortal life. Therefore, all must prepare themselves for this event in the light of human values, and Christians even more so in the light of faith. As for those who work in the medical profession, they ought to neglect no means of making all their skill available to the sick and dying; but they should also remember how much more necessary it is to provide them with the comfort of boundless kindness and heartfelt charity. Such service to people is also service to Christ the Lord, who said: "As you did it to one of the least of these my brethren, you did it to me" (*Mt. 25:40*).

At the audience granted prefect, His Holiness Pope John Paul II approved this declaration, adopted at the ordinary meeting of the Sacred Congregation for the Doctrine of the Faith, and ordered its publication.

Rome, the Sacred Congregation for the Doctrine of the Faith, May 5, 1980.

Franjo Cardinal Seper *Prefect*

Jerome Hamer, O.P. *Tit. Archbishop of Lorum Secretary*

FOOTNOTES

[1] DECLARATION ON PROCURED ABORTION, November 18, 1974: AAS 66 (1974), pp. 730-747.

[2] Pius XII, ADDRESS TO THOSE ATTENDING THE CONGRESS OF THE INTERNATIONAL UNION OF CATHOLIC WOMEN'S LEAGUES, September 11, 1947: AAS 39 (1947), p. 483; ADDRESS TO THE ITALIAN CATHOLIC UNION OF MIDWIVES, October 29, 1951: AAS 43 (1951), pp. 835-854; SPEECH TO THE MEMBERS OF THE INTERNATIONAL OFFICE OF MILITARY MEDICINE DOCUMENTATION, October 19, 1953: AAS 45 (1953), pp. 744-754; ADDRESS TO THOSE TAKING PART IN THE IXth CONGRESS OF THE ITALIAN ANAESTHESIOLOGICAL SOCIETY, February 24, 1957: AAS 49 (1957), p. 146; cf. also ADDRESS ON "REANIMATION," November 24, 1957: AAS 49 (1957), pp. 1027-1033; Paul VI, ADDRESS TO THE MEMBERS OF THE UNITED NATIONAL SPECIAL COMMITTEE ON APARTHEID, May 22, 1974: AAS 66 (1974), p. 346; John Paul II: ADDRESS TO THE BISHOPS OF THE UNITED STATES OF AMERICA, October 5, 1979: AAS 71 (1979), p. 1225.

[3] One thinks especially of Recommendation 779 (1976) on the rights of the sick and dying, of the Parliamentary Assembly of the Council of Europe at its XXVIIth Ordinary Session; cf. Sipeca, no. 1, March 1977, pp. 14-15.

[4] We leave aside completely the problems of the death penalty and of war, which involve specific considerations that do not concern the present subject.

[5] Pius XII, ADDRESS of February 24, 1957: AAS 49 (1957), p. 147.

[6] Pius XII, *Ibid.*, p. 145; cf. ADDRESS of September 9, 1958: AAS 50 (1958), p. 694.

Representative Whalen rose and asked that the Clerk record a no vote for him on both measures, and the Chair "so ordered."

Representative Cabrerros rose and asked that the Clerk record a no vote for him on both measures, and the Chair "so ordered."

Representative Ahu Isa rose to speak in opposition to both measures, stating:

"Mr. Speaker I stand in opposition to the bill, and I just want my colleagues to know that there is a power that is greater than us, and He gives life, and He takes life. Thank you."

Representative Fox rose and asked that the Clerk record a no vote for him on both measures, and the Chair "so ordered."

Representative Rath rose and asked that the Clerk record a no vote for him on Stand. Com. Rep. No. 539-02, and the Chair "so ordered."

Representative Pendleton rose and asked that the Clerk record a no vote for him on Stand. Com. Rep. No. 539-02, and the Chair "so ordered."

The Chair then announced:

"Members, like I stated earlier, we are having debate on both measures, the Standing Committee Reports 538 and 539, which are now before all of you to have debate on the same issue. Yes, one is a constitutional amendment, and the other is the statutory language."

Representative Hamakawa rose to speak in support of both measures, stating:

"Mr. Speaker, I applaud the efforts of the medical profession. I applaud the efforts of hospice care. I think the advances in these areas have gone a long way in the recent years. I think they have a long way to go. The fact of the matter is Mr. Speaker, that people who have terminal conditions, in the last remaining days or hours of their lives, are dying in pain, unbearable pain that no one should have to put up with. No one should have to deal with. All this bill allows is for people who are going to be faced with that condition, or that end, to provide for themselves to be relieved of that suffering.

"Just because you make the request, it does not mean that someone is going to fulfill that request for you. The requester or the patient has every option, at any time, to say, 'No, I don't want this end. I will not take the medication. I will not take this prescription.' And they can back out of it at anytime. Just because you make the request does not mean that you are going to have this end.

"Yes, you can get a doctor who can say that you have six months, and another doctor who can say, 'Yes, I agree. You do have six months,' and you may live another ten years. That is great. But some people don't want to go down this road. That is great. I applaud people who have that kind of strength to say, 'I am going to come to a natural end.' Not all people have that in them; not all people can endure that. I think we just have to find a more humane way Mr. Speaker, to allow people in the last remaining hours of their lives, to die peacefully, to die humanely, and to die with dignity. Thank you Mr. Speaker."

Representative Meyer rose and asked that the Clerk record a no vote for her on Stand. Com. No. 539-02, and the Chair "so ordered."

Representative Yonamine rose to speak in support of both measures, stating:

"Mr. Speaker I would like to vote in favor of both bills. And I would like to commend the Chair of Judiciary and Hawaiian Affairs for hearing it first, and to pass it out of the Committee because I think it is about time that people in the State to look at it and say, 'Hey, this is a good bill.'"

"This bill has nothing to do with my wife, my daughters, my relatives, my brothers, and sisters, people in society. It has

nothing to do with the Bible or God or the Hippocratic code. It has to do with me, me as an individual, like that bill should be applied only to you legislators. Look at yourself. As for me, all I want to do is I want to have the constitutional right to die when I want to, especially when you have a debilitating condition, or when your life is within the six months span end of life. I would want to have that choice because I want to be able to live knowing that I am able to live the way I have known to have lived: to be active and to be functional. And when these things are going to happen to me where I am no longer going to be a functional person, I want to die in dignity. That is what this bill is. It is an individual choice. It has nothing to do with what is going to happen to society or religious organizations or what any denomination feels, one way or the other.

"My mother was in a vegetative state for three months [years]. She was an outstanding, vigorous woman up until 85 years old, cooking and sewing until her eyes gave out. She was cleaning, doing the wash, doing the ironing, she did everything. She even did stretching exercises up until age of 85. She suffered a stroke which took her three years to rehabilitate herself. Her second stroke did her in, and for three years she was in a vegetative state.

"Now when I look at my mom, I say when I look at her that I don't want to be a vegetable or in a vegetative state for one, two or three years because it is a tremendous hardship for others, and most of all, for me. I don't want to live a life where I cannot do anything and I can't function as an individual. That is why I decided to say something about this, in support of this bill.

"Let the people decide. You should vote for it because I think it is a good bill. I do think this bill needs to be worked on because we need to look at it more, such as the six months for example, and it should be refined and worked on. It is about time we have public discussion on it and let the people decide."

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

Representative Halford rose to speak in support of both measures with reservations, stating:

"Thank you Mr. Speaker. I have reservations on both measures, and if I could briefly comment that I am disappointed that this just went to one committee."

Representative Lee rose to speak in support of both measures with reservations and asked that her remarks be inserted in the Journal, and the Chair "so ordered."

Representative Lee's written remarks are as follows:

"Mr. Speaker, I speak in favor of this bill with reservations. According to the book *The Gift of Choice*, written in 1997 by Carolyn Jaffe and Carol H. Erlich, debates about assisted suicide date back to ancient Greece and Rome, so our discussion today is not new. The use of the term 'death with dignity' has been also been used to such excess that in many instances it has no meaning.

"Those of us who have observed death and dying at close range would probably agree that the process of dying is not often easy and can take away 'dignity' as commonly defined. My experience of over 35 years as a nurse has led me to support certain beliefs regarding the use of physician assisted suicide.

"Pain control management has improved greatly. When I was a young nurse, I observed patients crying out in pain for their next dose of Demerol and often their bodies would be completely covered with injection site marks. This does not happen when up to date pain management is practiced. Not only do we have intravenous patient controlled analgesia, but also time released patches and oral medications and sedatives which make terminal patients comfortable and able to carry on a semblance of normalcy. What we need to make certain is that all persons have access to such analgesia.

"We have also written laws that provide patients with the ability to designate those who will make health care decisions for them when they are unable. Patients may also write 'living wills.' Unfortunately, many people never find out about such documents from their physicians until very late in their illness. Decisions may be made by relatives to prolong life futilely in terminal patients through lifesaving measures unless these documents exist before a patient is unable to make his own decisions.

"We really need to increase education of the public about end of life care options before we embark on the course before us. We also need to insist that physicians and others educate their patients regarding advanced directives and the option of hospice care for terminal patients.

"I am also concerned that many elderly or chronically ill patients may be suffering from depression and need intervention in the form of mental health counseling in order to deal with impending death. The experience in the Netherlands is frightening in many ways-it appears the country has made the transition from physician assisted death to euthanasia. It is an easy transition in many ways, especially if cost is the bottom line. It is also important to mention that most of our organized medical professional groups do not support this bill. Neither does the American Cancer Society.

"It is easy to assume that a bill such as this will 'fix' our concerns about death and dying. This is just a small part of the issue. It really needs to be considered in its entirety.

"We need to accept death as part of life – we can't just do away with it quickly and sweep it under the rug. I'm afraid that this may be a way to not deal with the realities of dying and to pretend that this part of the life process doesn't exist. Therefore, although there may be instances where a physician-assisted suicide is justified, this law is not good public policy. Thank You."

Representative Stonebraker rose to speak in opposition to both measures, stating:

"Opposition to both measures and real brief comments. I'll save the majority of my comments for Third Reading, if it makes it. It was brought up that people are dying in great pain. In Oregon when they passed the law, although they are not required to report the assisted suicides, in 2001 there were 21 reported assisted suicides. One of them, only one of them even mentioned 'pain.' Absolutely zero mentioned that there was substantial pain.

"A majority of these assisted suicides are because of psychological problems or depression, and so I wanted to make sure that that was in the minds of those who vote on this. Another comment was on 'I lived how I wanted to, and I want to die how I want to.' Currently it is illegal to commit suicide so let's not fool ourselves into that kind of thinking. This is illegal, so with that I will leave it. Thank you."

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

At this time the Chair asked the Clerk to read the votes that had been recorded for Standing Committee Reports Nos. 538 and 539, to which the Clerk responded:

"From what we have tallied for the two measures if you count the same vote for both items: Representatives Pendleton, Moses, Rath, Leong, Kahikina, Auwae and Meyer vote no. Representatives Espero and Abinsay are with reservations. Representative Ontai votes no. Representative Yoshinaga is with reservations. Representatives Magaoay, Gomes, McDermott and Whalen vote no. Representative Caberos is with reservations. Representatives Ahu Isa and Fox vote no. Representatives Schatz, Halford and Lee are with reservations. Representative Stonebraker votes no. Representative Djou is with reservations."

The motion was put to vote by the Chair and carried, and the reports of the Committee were adopted and H.B. No. 2491, HD 1, entitled: "A BILL FOR AN ACT PROPOSING A CONSTITUTIONAL AMENDMENT RELATING TO DEATH WITH DIGNITY," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Ahu Isa, Auwae, Fox, Gomes, Kahikina, Leong, Magaoay, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker and Whalen voting no, and with Representatives Arakaki, Bukoski and Davis being excused;

and

H.B. No. 2487, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DEATH WITH DIGNITY," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Ahu Isa, Auwae, Fox, Gomes, Kahikina, Leong, Magaoay, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker and Whalen voting no, and with Representatives Arakaki, Bukoski and Davis being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 540-02) recommending that H.B. No. 2117, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2117, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAII PENAL CODE," passed Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, Bukoski and Davis being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 541-02) recommending that H.B. No. 2199, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2199, 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 Arakaki, Bukoski and Davis being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 542-02) 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 M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2120, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM CHILD-CUSTODY JURISDICTION AND ENFORCEMENT ACT," passed Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, Bukoski and Davis being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 543-02) recommending that H.B. No. 1802, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1802, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"Mr. Speaker, thank you. I realize that it is Second Reading so I really will keep it brief. The title of this bill is a bit of a misnomer. I did some research because emergency contraceptives were kind of a new thing for me, so I didn't really know anything about it. I went through definitions and I read the testimony very carefully.

"Evidently, emergency contraception, what it does is either one of a number of things. Either, one, preventing ovulation so there will be no ovum to be fertilized. Two, somehow it can restrict the fallopian tubes to prevent fertilization there. And three, it will prevent the fertilized ovum, I think it is called a zygote at that point, from becoming implanted on the wall of the uterus. What this bill does and I was told that it admittedly would require the information to be given to an individual victim of a sexual assault, rape basically, the female.

"On closer examination what the bill requires is that any hospital or primary care facility has to make available these emergency contraception kits. My problem with it is that there is no way out for facilities that might not believe in abortion. On this definition, although it is called 'contraception,' it doesn't prevent conception, in terms of once you have conception. When the sperm unites with the ovum, it is then a zygote, and those of you in the medical profession, forgive me for not getting all the words exactly right. But it is fertilized at that point. Conception has occurred. Once the zygote starts going down the fallopian tubes and it is prevented from implanting on the uterine wall you would get what is basically, a very early stage miscarriage.

"For many people that is an abortion. You've got a fertilized egg, so to speak, that could grow to life but it has been prevented from attaching and therefore is discharged from the body. I have a problem where we are creating a penalty clause in there where it is \$100 a day, as well as letting the lawyers jump on this by giving the right for people to sue a facility.

"There are facilities that do not support or do not believe in abortion, and oppose it. If a facility or a doctor wants to do it, then that is their business. Our law already provides for it. But we are unilaterally telling every facility that you now have to support abortion and I think we are not being tolerant of views that are not consistent with some of our own and for those reasons, no."

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

"I am going to vote no on this one for the reasons articulate by my friend from Kona. But the bill says every hospital. That includes Catholic hospitals and that is grossly insensitive and I hope it is corrected as it goes along. Then I may be able to support it."

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

"A no vote for me for the same reason as the previous speaker."

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

"Thank you Mr. Speaker. I am in opposition and I hope this bill is aborted."

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

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

"Here is another situation, as illustrated by the Representative from Kona, where the location of a fertilized egg, if it is one location, it is not a life. If it is a quarter inch away, it is a life. It seems to me that this is almost like a homeless bill. This poor little life does not have a home. Emergency contraceptives basically prohibit that and in that sense it is an abortion. So for those reasons I have to vote no."

Representative Leong rose and asked that the Clerk record a no vote for her and the Chair "so ordered."

Representative Gomes rose to speak in support with reservations, stating:

"I am in support with reservations, given that the 'opt out' provision doesn't seem to be there."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1802, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY CONTRACEPTION FOR SEXUAL ASSAULT SURVIVORS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Auwae, Leong, McDermott, Moses, Rath, Stonebraker and Whalen voting no, and with Representatives Arakaki, Bukoski and Davis being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 544-02) recommending that H.B. No. 2824, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2824, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

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

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

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

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

"I think that some of the definitions that would constitute the basis for impeachment charges are pretty vague."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2824, HD 1, entitled: "A BILL FOR AN ACT RELATING TO IMPEACHMENT," passed Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, Bukoski and Davis being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 545-02) recommending that H.B. No. 2817, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2817, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2817, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII RULES OF EVIDENCE," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Arakaki, Bukoski and Davis being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 546-02) recommending that H.B. No. 1700, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1700, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE POLICIES," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Arakaki, Bukoski and Davis being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 547-02) recommending that H.B. No. 1701, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1701, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"I am an attorney and I have represented telecommunications firms in the past. A number of my clients could benefit from the passage of H.B. 1701," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1701, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUM PROPERTY REGIMES," passed Second Reading, was placed on the calendar for Third Reading with Representatives Arakaki, Bukoski and Davis being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 548-02) recommending that H.B. No. 1762, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1762, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"This one seems to be too broad."

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

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

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1762, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INJURY TO PUBLIC UTILITY PROPERTY," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Gomes, Meyer, Rath and Stonebraker voting no, and with Representatives Arakaki, Bukoski and Davis being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 549-02) recommending that H.B. No. 2351, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2351, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ACCESS CABLE TELEVISION," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Arakaki, Bukoski and Davis being excused.

Representatives Hiraki and Hamakawa, for the Committee on Consumer Protection and Commerce and the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 550-02) recommending that H.B. No. 2655, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2655, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAPTIVE INSURANCE," passed

Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, Bukoski and Davis being excused.

Representatives Hiraki and Hamakawa, for the Committee on Consumer Protection and Commerce and the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 551-02) recommending that H.B. No. 2207, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2207, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE FRAUD," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Arakaki, Bukoski and Davis being excused.

Representatives Saiki and Hamakawa, for the Committee on Labor and Public Employment and the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 552-02) recommending that H.B. No. 2232, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2232, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

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

"Thank you Mr. Speaker. I would like to have a no vote recorded for me and I'd like to briefly explain why. Mr. Speaker, the Whistleblower Act is a very good Act. It encourages employees to immediately blow the whistle when they see that something that is wrong. What this bill does is weaken the Whistleblower Act because it will allow plaintiff's attorneys to bring a lawsuit for that employee for a two-year period. The whole idea of the Whistleblower Act is to blow the whistle if the problem isn't corrected immediately or the employee suffers for blowing the whistle. Then the employee can immediately bring a lawsuit.

"I find that when you put a two year provision for that lawsuit you really encourage attorneys to use this as a 'shopping cart' claim, where they run around with the shopping cart and figure out all the claims they can throw into the complaint against the employer. That is not the intent of the Whistleblower Act so I am very opposed to the two-year provision on page 3. Without that, if that would go back to the original 90 days, then I think the Act is stronger. The intent is stronger. The action is stronger. I could support it that way. But I can't support it as they have it 'watered down.'"

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

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

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

"Just very briefly, I am opposing this measure for many of the same reasons as stated by the Representative from Kailua,

and I would also just like to add that Hawaii, unfortunately, too often, has a reputation of being a place which is hostile to investors and is anti-business. I fear that the passage of legislation extending the Whistleblower provision to two years will only further and enhance our anti-business reputation and expose our businesses to additional liability that they do not need. Thank you."

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

"Thank you Mr. Speaker. Also a no vote for me for the reasons stated by the Representative from Kailua."

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

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

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

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

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

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

"I have some brief comments since this only Second Reading. The purpose of this bill is to protect employees when their employer retaliates against them for blowing the whistle. This bill only comes into effect when the employer retaliates against an employee. I'd like to emphasize that the statute of limitations is extended for a two-year period because this claim, the Whistleblower Claim, is really akin to a tort.

"If an employee was retaliated against, that employee would probably file a complaint which would allege, in addition to a whistleblowing claim, various other torts such as defamation, interference with contractual relations, interference with economic advantage, all of which have a two-year statute of limitations. That would probably be in addition to a breach of contract claim, which carries a six-year statute of limitations. So in this respect, this two-year statute of limitations is consistent with many other types of claims, which for an employee could bring consistency, I think, to legitimate claims that that employee could bring to this situation."

Representative Thielen rose to respond, stating:

"Thank you Mr. Speaker. The previous speaker just showed the 'shopping cart' of claims that will be piled on. That is not the intent of the Whistleblower Act. The Whistleblower Act is to bring closure to something that has been a dangerous situation. Not to be something that is added to the 'shopping cart' with a two-year period statute of limitation. Thank you."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2232, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE WHISTLEBLOWERS' PROTECTION ACT," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Djou, Fox, Gomes, Halford, Leong, Marumoto, Meyer, Moses, Ontai, Rath and Thielen voting no,

and with Representatives Arakaki, Bukoski and Davis being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 553-02) recommending that H.B. No. 1758, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1758, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DOMESTIC ABUSE," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Arakaki, Bukoski and Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 554-02) recommending that H.B. No. 2224, pass Second Reading and be placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 2224, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"I like the underlying substance of this measure. My reservations revolve entirely around requiring each State and county government agency to submit an annual report regarding this particular provision. We have too much paper work going on, too much paper pushing, and too many reports. We don't need to pile on another one."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2224, entitled: "A BILL FOR AN ACT RELATING TO PARENTAL PREFERENCES IN GOVERNMENT CONTRACTS, PROGRAMS, AND SERVICES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, Bukoski and Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 555-02) recommending that H.B. No. 2365, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2365, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, Bukoski and Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 556-02) recommending that H.B. No. 2788, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2788, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, Bukoski and Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 557-02) recommending that H.B. No. 2840, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2840, entitled: "A BILL FOR AN ACT RELATING TO STATE GOVERNMENT," passed Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, Bukoski and Davis being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 558-02) recommending that H.B. No. 2440, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2440, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHAPTER 846E, HAWAII REVISED STATUTES," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Arakaki, Bukoski and Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 559-02) recommending that H.B. No. 1996, pass Second Reading and be placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1996, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"I oppose this. It is a *de facto* tax increase and for that reason I oppose this measure."

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

"What this does is causes people with a lower income to file estimated taxes. I disagree with it and I don't think it is a good policy."

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

"This bill is contrary to the spirit of the House and Senate and Governor in the events after September 11th. The emergency events basically encouraged relaxation on taxation requirements in order to keep more money in the economy. This moves in the opposite direction. Thank you."

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

"This measure is providing increased tax burden on the taxpayers. It is not increasing the amount, but it is increasing the frequency, and it may make it very difficult for them to obey the law and of course we don't want that."

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

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

Representative Pendleton rose and asked that the Clerk record a no vote for him and that the remarks of Representative Fox be entered in the Journal as his own, and the Chair "so ordered." (By reference only.)

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

"Thank you Mr. Speaker. I rise in support with some reservations, or I guess, questions. This bill lowers the adjusted gross income threshold for individuals required to make annual payments for the estimated income taxes, these are usually self-employed people, from a \$150,000 to \$50,000. But then the next thing it does is it reduces the percentages used to determine the required annual payment from 90% to 60%. I may be reading it wrong. That seems like less that they have to pay. So I am not quite sure what this bill is doing. Thank you Mr. Speaker."

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

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1996, entitled: "A BILL FOR AN ACT RELATING TO THE ADMINISTRATION OF TAXES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Djou, Fox, Gomes, Halford, Marumoto, McDermott, Moses, Ontai, Pendleton, Rath and Thielen voting no, and with Representatives Arakaki, Bukoski and Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 560-02) recommending that H.B. No. 1072, pass Second Reading and be placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1072, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

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

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

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1072, entitled: "A BILL FOR AN ACT RELATING TO THE MAUI REGIONAL HEALTH SYSTEMS CORPORATION," passed Second Reading and was placed on the calendar for Third Reading with Representatives Djou, Fox, Leong, Meyer, Moses and Stonebraker voting no, and with Representatives Arakaki, Bukoski and Davis being excused.

SUSPENSION OF RULES

On motion by Representative Lee, seconded by Representative Djou and carried, the rules were suspended for the purpose of considering certain bills on Third Reading on the basis of a modified consent calendar. (Representatives Arakaki, Bukoski, Davis and Ontai were excused.)

At 4:38 o'clock p.m., Representative Halford requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 4:39 o'clock p.m.

STANDING COMMITTEE REPORTS

Representatives Hiraki and Hamakawa, for the Committee on Consumer Protection and Commerce and the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 561-02) recommending that H.B. No. 1723, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1723, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE SAFETY," passed Third Reading by a vote of 45 ayes, with Representatives Arakaki, Davis, Hale, Kawakami, Rath and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 562-02) recommending that H.B. No. 536, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 536, entitled: "A BILL FOR AN ACT RELATING TO COMMUNITY DEVELOPMENT," passed Third Reading by a vote of 45 ayes, with Representatives Arakaki, Davis, Hale, Kawakami, Rath and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 563-02) recommending that H.B. No. 1724, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1724, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL NUMBER PLATES FOR MILITARY SERVICE," passed Third Reading by a vote of 45 ayes, with Representatives Arakaki, Davis, Hale, Kawakami, Rath and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 564-02) recommending that H.B. No. 1731, HD 2, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee

was adopted and H.B. No. 1731, HD 2, entitled: "A BILL FOR AN ACT RELATING TO DRIVERS EDUCATION FUND UNDERWRITERS FEES," passed Third Reading by a vote of 42 ayes to 3 noes, with Representatives Fox, Stonebraker and Whalen voting no, and with Representatives Arakaki, Davis, Hale, Kawakami, Rath and Souki being excused.

The Chair directed the Clerk to note that H.B. Nos. 1723; 536; 1724; and 1731, HD 2 had passed Third Reading at 4:40 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 565-02) recommending that H.B. No. 1766, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1766, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Kawakami, Rath and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 566-02) recommending that H.B. No. 2163, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2163, entitled: "A BILL FOR AN ACT RELATING TO REHIRING RETIRED TEACHERS IN THE DEPARTMENT OF EDUCATION," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Kawakami, Rath and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 567-02) recommending that H.B. No. 1777, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1777, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Kawakami, Rath and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 568-02) recommending that H.B. No. 1778, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1778, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FINANCIAL SERVICES LOAN COMPANIES," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Kawakami, Rath and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 569-02) recommending that H.B. No. 1950, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1950, pass Third Reading, seconded by Representative Lee.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1950,

entitled: "A BILL FOR AN ACT RELATING TO PRESCRIPTION DRUGS," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Kawakami, Rath and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 570-02) recommending that H.B. No. 2495, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2495, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR THE DEPARTMENT OF HUMAN SERVICES," passed Third Reading by a vote of 46 ayes, with Representatives Arakaki, Davis, Kawakami, Rath and Souki being excused.

The Chair directed the Clerk to note that H.B. Nos. 1766; 2163; 1777, HD 1; 1778, HD 1; 1950; and 2495 had passed Third Reading at 4:42 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 571-02) recommending that H.B. No. 2518, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2518, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY MEDICAL SERVICES," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Davis and Rath being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 572-02) recommending that H.B. No. 2521, HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2521, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Thank you Mr. Speaker I rise in support with some reservations. This bill will establish a Public Health Nursing Services Special Fund. It seems that we have so many special funds, and this is just another added to the hundred-odd that we already have. So that is my major reservation. 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. 2521, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CONTROL OF DISEASE," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Davis and Rath being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 573-02) recommending that H.B. No. 2523, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2523, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY MEDICAL SERVICES," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Davis and Rath being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 574-02) recommending that H.B. No. 2538, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2538, entitled: "A BILL FOR AN ACT RELATING TO AQUATIC RESOURCES," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Davis and Rath being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 575-02) recommending that H.B. No. 2549, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2549, entitled: "A BILL FOR AN ACT RELATING TO EXTENSION OF PUBLIC LAND LEASES," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Davis and Rath being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 576-02) recommending that H.B. No. 2557, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2557, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REHIRING RETIRED SCHOOL ADMINISTRATORS," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Davis and Rath being excused.

The Chair directed the Clerk to note that H.B. Nos. 2518; 2521, HD 2; 2523; 2538; 2549; and 2557, HD 1 had passed Third Reading at 4:43 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 577-02) recommending that H.B. No. 2558, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2558, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STUDENT LOANS FOR TEACHERS," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 578-02) recommending that H.B. No. 2709, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2709, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 579-02) recommending that H.B. No. 2512, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2512, pass Third Reading, seconded by Representative Lee.

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

"Thank you Mr. Speaker. I would just like to note my reservations. My reservations are that this creates yet another special fund that I don't like."

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

"Mr. Speaker, I would like to register an aye with reservations, and if the Clerk could go back, I think I was looking at the wrong testimony on the bill that I just stood up on."

The Chair responded, stating:

"Representative Meyer, we cannot go back because we have already adopted it as far as adopting the committee reports and passing the bills on Third Reading on the prior page."

Representative Meyer replied, stating:

"Thank you. I understand."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2512, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC HEALTH NURSING SERVICES SPECIAL FUND," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 580-02) recommending that H.B. No. 2798, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2798, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOLARSHIPS," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 581-02) recommending that H.B. No. 2761, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2761, HD 1, pass Third Reading, seconded by Representative Lee.

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

"I am in opposition, not because I don't think that we have a great need for children to have healthy teeth. However, this bill proposes some 27 or 28 new positions. I just don't feel that this is the time in our economy to allocate that much money and that many positions. Thank you."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2761, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMUNITY ORAL HEALTH," passed Third Reading by a vote of 46 ayes to 3 noes, with Representatives Gomes, Ontai and Stonebraker voting no, and with Representatives Arakaki and Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 582-02) recommending that H.B. No. 1966, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1966, HD 1, pass Third Reading, seconded by Representative Lee.

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

"I am very concerned. As usual, I've repeatedly expressed my concerns in this Chamber about Hawaii having an anti-business reputation, about having a reputation as being hostile and unfriendly to entrepreneurs and investors. I believe passage of this legislation, Standing Committee Report 582, H.B. 1966, which requires that anytime an outside investor comes in and purchases a Hawaii company, they must retain at least 50% of the workers, will again, only enhance Hawaii's anti-business attitude and reputation, and again, will make Hawaii more hostile to investors coming into our State.

"This is not the direction we want to be going in. We should be lowering the barriers of entry for commerce and enterprise here in our State, not increasing it. We should encourage the free flow of capital, not discouraging it. We should be reducing the amount of regulations, not increasing it, and for these reasons, I stand in opposition to this measure. Thank you."

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

"Thank you Mr. Speaker. I stand in strong opposition. Mr. Speaker we had a similar bill a couple Sessions ago, and this one is no different and no less bad.

"This flies in the face of free enterprise. What it says is if you buy a business, you no longer have the right to control your business. The State demands that you keep 50% of the present employees. We refer to this as a 'sickle and hammer' bill because this goes way beyond the bounds of free enterprise. This is from something out there in socialists, communists, in never-never land. When you think about it, you yourself would not buy a business where you had to maintain 50% of the employees. You might have a different vision for that business. Why would you invest in that business?

"The reason businesses are sold, very often, is because they are not doing so well. So if you come in as an entrepreneur, and as an investor to Hawaii, or let's say you are a person here in Hawaii, and you buy a fairly large business with 100 employees or more, you have to maintain 50% of those employees. You can no longer control your business. This is something that just says, 'Don't come to Hawaii. Don't invest in Hawaii. Don't buy a business here because if you do then you are crazy.' I don't think that is the message that we want to send to investment, either outside the State or for people who want to invest here. It doesn't promote business generating higher efficiency, or better profit. It just stagnates a business.

"Additionally, if you own that business, if you happen to be the owner trying to sell a business, it depreciates the value of that business for the person that might buy it because you are stuck with 50% of the employees. So for that reason and many, many more, I could go on for an hour I am sure, this 'sickle and hammer' bill should be put in an envelope and mailed to the Soviet Union. Thank you."

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

"Let's say you come in you buy a business. Maybe you bought it on a 'fire sale,' or maybe you are going to rebuild it. You'd like to retain 100% of the employees, but maybe when you remodel, you remodel it differently and now you don't have room for 100. Maybe you only have room for 30. You couldn't do. You would have to build the building just the way it was.

"Let's say you change the business. Maybe you were boarding animals and you decide that PETA got to you and they say you have got to treat the animals a little better, so you want to make roomier cages. You don't have enough cages now to keep all the animals so you have a smaller staff. You can't keep all the employees. It is not because you don't want to. You may be physically unable to do so. Thank you Mr. Speaker."

Representative Auwae rose and asked that the Clerk record a no vote for her and that the remarks of Representative Rath be entered in the Journal as her own, and the Chair "so ordered."

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

"Mr. Speaker, I stand in strong support of this bill. There were many incidents. We are an island state. We forget that our people live here and we cannot just cross borders to find jobs. When I was living on Kauai, I remember Mayor Kusaka, when the hurricane hit and the Hemmeter Kauai Resort was sold to Marriott. She asked them to please employ at least 90% of the workers.

"Here it is, a Neighbor Island. There are only 50,000 people that live on Kauai. They said that yes, they would promise to, but when they did take over, they did not hire back the employees. So that is just one situation.

"The way this bill is crafted, it just says that this is required where there are 100 employees at any time in the preceding twelve months. If it is less than that, then we don't really hurt the small businesses. So that is my point Mr. Speaker, Thank you."

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

"I gave a commentary on Second Reading so I won't bore my colleagues with that. Needless to say, this bill tries to maintain a balance, actually. When we look at the employees of any given company of a 100 or more, and I like to remind my colleagues that less than 2% of the businesses in Hawaii that are affected by this. This is 50% or more of non-supervisory employees. So we are trying to strike that balance where someone comes in and buys a hotel, and that is the usual situation. While remodeling the carpets and the draperies and all of that, tossing out the chairs, tossing out the workers on the street and saying thank you very much. I think again, it is trying to strike that balance.

"If we are talking about the free enterprise system Mr. Speaker, concepts like child labor, minimum wage, the Prepaid Health Act, workers compensation, temporary disability insurance, and the list goes on and on. Those also impact the free enterprise system, and I think all of those are good things. Thank you very much."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1966, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT," passed Third Reading by a vote of 32 ayes to 17 noes, with Representatives Auwae, Bukoski, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker, Thielen and Whalen voting no, and with Representatives Arakaki and Davis being excused.

The Chair directed the Clerk to note that H.B. Nos. 2558, HD 1; 2709; 2512; 2798, HD 1; 2761, HD 1; and 1966, HD 1 had passed Third Reading at 4:53 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 583-02) recommending that H.B. No. 2445, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2445, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 584-02) recommending that H.B. No. 2571, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2571, entitled: "A BILL FOR AN ACT RELATING TO TAXATION OF PERSONS WITH IMPAIRED SIGHT OR HEARING OR WHO ARE TOTALLY DISABLED THAT ARE ENGAGED IN BUSINESS," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 585-02) recommending that H.B. No. 2843, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2843, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 586-02) recommending that H.B. No. 2723, HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2723, HD 2, pass Third Reading, seconded by Representative Lee.

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

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

"The State shouldn't be instructing the counties on how to do this, or even recommending it. Let the counties decide how they want to do things."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2723, HD 2, entitled: "A BILL FOR AN ACT RELATING TO COUNTIES," passed Third Reading by a vote of 46 ayes to 3 noes, with Representatives Gomes, Meyer and Rath voting no, and with Representatives Arakaki and Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 587-02) recommending that H.B. No. 2553, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2553, pass Third Reading, seconded by Representative Lee.

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

"There are too many special funds and the Bureau of Conveyances' special fund seems to be one we love to play around with. I don't like it. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2553, entitled: "A BILL FOR AN ACT RELATING TO THE BUREAU OF CONVEYANCES," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 588-02) recommending that H.B. No. 2455, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2455, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL SITE CLEANUP," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

The Chair directed the Clerk to note that H.B. Nos. 2445; 2571; 2843; 2723, HD 2; 2553; and 2455 had passed Third Reading at 4:55 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 589-02) recommending that H.B. No. 1722, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1722, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 590-02) recommending that H.B. No. 2018, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2018, HD 1, pass Third Reading, seconded by Representative Lee.

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

"The bill will allow existing lessees to go through a process to be able to get a new lease for State land. My concern is, on page 5 of the bill, lines 5 through 7. The procedure provided for shall be available to tenants whose leases have already expired and are on revocable permits. I am concerned because it probably would apply to the Knott's Ranch that is bordering Kawaiinui Marsh, and it has been the subject of much debate as to whether or not that operation should continue on the marsh area, because the marsh area is so fragile. 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. 2018, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL LEASES," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 591-02) recommending that H.B. No. 2094, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2094, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST PROJECTS ON THE ISLANDS OF MAUI AND HAWAII," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 592-02) recommending that H.B. No. 2176, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2176, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL MARKETING," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 593-02) recommending that H.B. No. 2271, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2271, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO ABATE AGRICULTURAL THEFT," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 594-02) recommending that H.B. No. 2006, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2006, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL WASTES RECYCLING," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

The Chair directed the Clerk to note that H. B. Nos. 1722; 2018, HD 1; 2094, HD 1; 2176, HD 1; 2271; and 2006, HD 1 passed Third Reading at 4:57 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 595-02) recommending that H.B. No. 2400, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2400, HD 1, pass Third Reading, seconded by Representative Lee.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2400, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 596-02) recommending that H.B. No. 1867, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1867, HD 1, pass Third Reading, seconded by Representative Lee.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1867, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR HEALTH CARE FOR THE UNINSURED," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 597-02) recommending that H.B. No. 2212, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2212, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ALIEN INVASIVE SPECIES," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 598-02) recommending that H.B. No. 1969, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1969, pass Third Reading, seconded by Representative Lee.

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

"Thank you Mr. Speaker. This particular measure allows the BOE to hire their own attorneys without consulting with the Department of the Attorney General. I am very concerned that this is an invitation to creating further litigation and confusion in our State government.

"We authorized the University of Hawaii to do this; that they can hire their own attorneys. But we also passed a constitutional amendment clearly defining that the UH has their own autonomy. That has not occurred with the BOE, at least not yet. Consequently, with the passage of this legislation, I fear that we could end up in a situation where an attorney hired by the BOE opines on an issue, and the Department of the Attorney General opines another way. The State will be in a very difficult situation where the State's own attorneys would be disagreeing with themselves and suing each other. This is not good public policy-making. Thank you."

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

"I think you all know how I feel about lawyers so this is nothing personal. But I don't believe that we should have two department heads basically at each other's throats. Different opinions in the courts that would make great headlines. So, opposition."

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

"Mr. Speaker, originally in Committee, I had supported this which tries to give the BOE some autonomy to at least to make

some of its own decisions. However after hearing that they might be considering throwing kindergartners out on the street, I prefer they throw the attorneys out and keep the kindergartners."

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

"Mr. Speaker, the purpose of this bill is to allow the BOE to employ its own attorneys without the approval of the State Attorney General. Mr. Speaker, the BOE and the Hawaii State Public Library System often needs to seek legal advice, but there have been several instances when the Attorney General's office was unable to respond in a timely manner. This delays the work of the BOE, the Hawaii State Public Library System and the DOE.

"Further, there have been occasions where the BOE has disagreed with the advice provided by the Attorney General's office, but were powerless in pursuing other alternatives. Allowing the BOE to retain its own legal counsel will improve the response time on the BOE's request for legal assistance and will provide the necessary support to pursue legal action when the Board's interest diverge from the rest of the Executive Branch.

"This bill will give the BOE flexibility in order to perform its duties better. The Attorney General is responsible for many other State agencies and allowing the BOE to hire its own attorneys will free the DOE of those added responsibilities."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1969, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF EDUCATION," passed Third Reading by a vote of 38 ayes to 11 noes, with Representatives Auwae, Djou, Gomes, Jaffe, Marumoto, Meyer, Moses, Ontai, Rath, Stonebraker and Thielen voting no, and with Representatives Arakaki and Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 599-02) recommending that H.B. No. 1959, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1959, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHER EDUCATION," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 600-02) recommending that H.B. No. 2044, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2044, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Davis being excused.

The Chair directed the Clerk to note that H. B. Nos. 2400, HD 1; 1867, HD 1; 2212, HD 1; 1969; 1959, HD 1; and 2044, HD 1 passed Third Reading at 5:02 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 601-02) recommending that H.B. No. 2045, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2045, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REVENUE BONDS," passed Third Reading by a vote of 50 ayes, with Representative Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 602-02) recommending that H.B. No. 2231, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2231, entitled: "A BILL FOR AN ACT RELATING TO THE AUDITOR," passed Third Reading by a vote of 50 ayes, with Representative Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 603-02) recommending that H.B. No. 2545, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2545, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INDUSTRIAL PARKS ON PUBLIC LANDS," passed Third Reading by a vote of 50 ayes, with Representative Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 604-02) recommending that H.B. No. 2552, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2552, HD 1, pass Third Reading, seconded by Representative Lee.

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

Representative Thielen continued, stating:

"Mr. Speaker, the Hawaii Audubon Society has a very strong reason why we should not proceed. I would request if a brief paragraph from their testimony could be inserted into the Journal as my remarks in opposition. Thank you."

Representative Thielen submitted the following testimony from the Hawaii Audubon Society:

"While we sympathize with the State wanting to treat all landowners 'equal', we have not yet heard a progress report from the Department of Land and Natural Resources on how well the Safe Harbor Agreements and Habitat Conservation Plans with private landowners are doing in terms of protecting our endangered species. Are the endangered species population numbers going up, are they staying the same, or are they continuing to decline in spite of or because of the safe harbors and habitat conservation plans loopholes? Do we know, or is it to soon to tell? Until the Legislature is given some conclusive data that demonstrates that this program has proven beneficial to Hawaii's endangered species it should deny any expansion of this program."

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

"Just briefly, as I stated on Second Reading, I think there are some constitutional issues that really need to be worked out. The way that the HD 1, came out, I think, creates a legislative veto. While I respect the intention, to try and come out with a compromise so that we can have a certain project out in Ewa go

through, I think what we have done is create a huge loophole in this law, which really is unwarranted. On that basis, I think it is also bad policy. For those two reasons, I strongly oppose it and I hope that as this bill continues to move forward, maybe alternative language could be used because I really, really do think that this is a legislative veto.

"As you see, on page 2, what it does is it creates a disapproval process by the Legislature after we've given the authority to the Executive. Under INS v Chadha, the U.S. Supreme Court case said that the legislature cannot do that. So those for those reasons I stand in opposition. 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. 2552, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEFINITION OF LANDOWNER FOR SAFE HARBOR AGREEMENTS AND HABITAT CONSERVATION PLANS," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Jaffe, B. Oshiro and Thielen voting no, and Representative Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 605-02) recommending that H.B. No. 2570, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2570, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CAPITAL GOODS EXCISE TAX CREDIT," passed Third Reading by a vote of 50 ayes, with Representative Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 606-02) recommending that H.B. No. 2577, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2577, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DEVELOPMENT OF PUBLIC LANDS," passed Third Reading by a vote of 48 ayes to 2 noes, with Representatives Fox and Thielen voting no, and Representative Davis being excused.

The Chair directed the Clerk to note that H. B. Nos. 2045, HD 1; 2231; 2545, HD 1; 2552, HD 1; 2570, HD 1; and 2577, HD 1 had passed Third Reading at 5:05 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 607-02) recommending that H.B. No. 1012, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1012, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE III, SECTION 6, OF THE HAWAII CONSTITUTION, TO CHANGE THE ELIGIBILITY TO SERVE AS A MEMBER OF THE SENATE OR HOUSE OF REPRESENTATIVES," passed Third Reading by a vote of 50 ayes, with Representative Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 608-02) recommending that H.B. No. 2606, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2606, HD 1, pass Third Reading, seconded by Representative Lee.

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

"I support recall of elected officials if there is any wrongdoing. I think people should be removed from office. I would also like to see convicted politicians removed from office immediately upon conviction. I do not see a bill pertaining to that before us today. So I know I would like to see something of that sort added to one of these bills. Thank you very much."

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

"I have no reservations to the recall measure. I simply saw something in the bill I think is a problem that can be fixed as it goes along the way. The petition calls for the petitioner for recall to gain from the voters a petition that includes their name, address, social security number, and their signature. What is problematic there is if you get somebody's name, address, and especially their social security number, and have a copy of their signature, that invites identity theft. That is the reason why we took the social security numbers off the driver's licenses.

"Even if you got somebody's social security off of the driver's license, which had been a problem, now you have a copy of the person's signature. Since there is no qualification for taking the petition around in this, any citizen can start a petition. It means that anybody can simply say that I am going out and I want to remove somebody and start getting signatures with all this information.

"I think we could just as well as change that to the birthday because that is in the registered voters data base, and remove the social security number as a method of identification for that specific voter. I would be hesitant to pass it in this form with all that information because I can tell you, as a voter, I am absolutely certain many would be hesitant to sign it with all that information on it. Just a point that can be fixed."

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

"I am in support Mr. Speaker. I have to identify this as a pretty phony reform measure. The requirement that you have to get 25% of the qualified registered voters in an area to sign a petition means we will never see this in operation. Since the City and County went from requiring 10% of the total number of voters in the previous election, to 10% of registered voters, just that change from 10%, it has basically precluded initiative working at the county level. Ten percent is a very high level of all registered voters. Twenty-five percent is a prohibitive level, so this looks good, feels good, but isn't going to do anything. Thanks."

At 5:08 o'clock p.m., Representative Gomes requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 5:09 o'clock p.m.

The motion was put to vote by the Chair and carried, and, the report of the Committee was adopted and H.B. No. 2606, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," passed Third Reading by a vote of 50 ayes, with Representative Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 609-02) recommending that H.B. No. 2842, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2842, pass Third Reading, seconded by Representative Lee.

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

"I do think that the penalty is too harsh with regard to revocation of the benefits. It should only be for the period of the criminal activity, that has been proven."

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

"I don't think we should give convicted public officials any benefits that they accrue after they are convicted. I believe that they should be removed from office upon conviction and not wait to sentencing. I do not have the entire bill here so my apologies if I am wrong, but I would like to see immediate removal from office upon conviction."

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

"This is one of the Democrats' 'good government' measures. What it does is provides for forfeitures of service time for benefits. As an elected official, if you do a crime, you lose your 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. 2842, entitled: "A BILL FOR AN ACT RELATING TO ELECTED OFFICIALS," passed Third Reading by a vote of 50 ayes, with Representative Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 610-02) recommending that H.B. No. 2708, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2708, HD 1, pass Third Reading, seconded by Representative Lee.

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

"I am rising to speak with serious reservations about Standing Committee Report 610, and H.B. 2708, which relates to animal diseases. Mr. Speaker, this bill will give the Department of Agriculture the authority to destroy animals that are susceptible to contagious, infectious, or communicable diseases.

"Before I was elected into the Legislature, I represented Maria Hustace in her lawsuit against the State. The Department of Agriculture forced her to have her healthy animals slaughtered. There also was some wrongdoing by some Department of Agriculture employees who ended up with the meat and used it for their own table. It was a really bad situation. The animals didn't need to be slaughtered and the Department of Agriculture did not handle the matter well.

"She won her lawsuit, or they settled with her, and she was awarded a substantial sum for the loss of her animals. I would not like to put something in place that would let the Department of Agriculture go and do a similar thing in the future. I am not voting against it in the hope that they learned their lesson back in the 80s.

"Also Mr. Speaker, if that is a conflict and I shouldn't vote on the bill, please let me know."

The Chair ruled: "No conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2708, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ANIMAL DISEASES," passed Third Reading by a vote of 50 ayes, with Representative Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 611-02) recommending that H.B. No. 2618, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2618, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you Mr. Speaker. I stand in strong support of H.B. 2618. I know that the dentists in Hawaii are very much in support of this bill. What it is doing now is it provides direct payment to the dentist and that would give their patients more choice in determining which dentist they want to use, and it will be better for the consumers. Thank you."

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

"I think as your Health Chair, I would like to recommend that we vote against this measure. Basically it is a special interest bill. It is a pocketbook issue for the benefit of the dentist. I think in the long run it is going to result in less options for people, especially those who are underserved, the underserved populations and geographic locations. It may sound, on the surface, like a good idea, but I think there are going to be a lot of unintended consequences of this bill and I hope it doesn't move too much further. 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. 2618, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 43 ayes to 7 noes, with Representatives Arakaki, Fox, Kahikina, Kanoho, Meyer, Stonebraker and Takai voting no, and Representative Davis being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 612-02) recommending that H.B. No. 2731, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2731, HD 1, pass Third Reading, seconded by Representative Lee.

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

"I am very well aware of our problems with respect to the disposal of solid waste and the work that we still need to do with respect to recycling. Mr. Speaker, my reservations are directed to the testimony offered by the Department of Health where the Department states that depending on the types of waste to be accepted, a landfill in this area may pose significant environmental concerns. The area that we are speaking of for the proposed disposal facility is in the Kunia area in Central Oahu.

"My concern is with the problem that this significant environmental concern may have, with respect to its impact on the Pearl Harbor aquifer which sits under most of Central Oahu and would affect my district especially. So I'll be watching this measure as it proceeds and I am very concerned as to whether or not we may be able to mitigate that environmental concern. Thank you."

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

"Not only does it sit around the area of Kunia which currently is in my district, but it sits up right next to the Honouliuli Preserve. It is some of the most prestigious agricultural land, most valuable agriculture land in this State, especially on this island, right next to it. I have to apologize to you Mr. Speaker, I don't know the exact location because these folks that want to do it did not come to the Finance Committee and make their presentation. They may have in the previous Committee. All we could see was the maps that some of the City folks who were speaking against the measure had. It looks like it is right up in the seed corn area, which is very prosperous not only for the agriculture people but for the entire State of Hawaii.

"I also have a problem that it seems like the only landfills on this island can go up against the Waianae mountains. So this would be on the other side of the Waimanalo Gulch Landfill, so we will have two landfills in the same areas. I believe it is time for Kailua, or somewhere else to have a landfill. I am serious about this Mr. Speaker. The island's garbage can't keep coming to one area. We've had three landfills in the Makakilo/Kapolei area. One of them, the current one, is directly across from Ko Olina, one of the greatest resorts sites in the State. The people see all these trash bags flying all over their resorts. Why do people want to spend their money in the timeshare and see this stuff flying around. Now we are building another one in another prime area of the island. Mr. Speaker we really need to look at this and I look forward to these folks coming to see me and show me where the maps are."

Representative Thielen rose to respond, stating:

"Thank you Mr. Speaker. I would just like to correct my colleague who previously spoke. Kailua has had its landfill, and it also has two correctional facilities out there, so I think we have done our share. I guess this is just one more reason why we need a 'bottle bill' in Hawaii, so we can eliminate the waste stream."

The Chair addressed Representative Thielen, asking:

"Are you speaking in support of the measure?"

Representative Thielen responded in support of the measure, stating:

"Yes, and I would like to educate my colleague, as I mentioned, that Kailua has had its landfill, but I go back to the 'bottle bill.' If we have a 'bottle bill,' we will eliminate a large amount of waste in our waste stream, and then my colleague won't need to worry because we will have much less waste to go to a landfill. Thank you."

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

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

Representative Meyer continued, stating:

"Thank you Mr. Speaker I am rising in opposition to this measure. I would like the words of my colleague from Kapolei, minus the landfill comments, recorded. For my entire adult life, up until 10 years ago, the Kailua landfill was probably the only place. Everybody from Waianae would come to Kailua and drop their garbage bags along the way. This is prime agricultural land and it seems like a terrible waste. This is not an appropriate use of the land out there. If they can find another location, it will probably work."

Representative Garcia again rose to speak in support of the measure with reservations and asked that the remarks of Representative Moses be entered in the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Garcia continued, stating:

"Just again to reiterate the aye with reservations. I would also like to include the remarks from my good friend from Makakilo as if they were own, except for the reference to Kailua. Can you, Madame Clerk, make reference to another area that begins 'K' like Kaimuki, Kulio'o or Kahala. Thank you."

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

"Mr. Speaker, this bill speaks of the very dire need of where we put our *opala*. You know, there is technology now. One in particular is the arc plasma technology. Your Chair is going to visit Washington D.C. next month. I have an appointment with Selena Inc. who has this plasma technology operating in one of the states, that can take the rubbish and turn it into energy. They could take the dump at Ko Olina and reduce it down to 30%. They can take that rubbish out of the mountain and turn it into energy. I think we need to move in those directions."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2731, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR CENTRAL OAHU RECYCLING AND DISPOSAL FACILITY, INC.," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Leong, Meyer and Moses voting no, and Representative Davis being excused.

The Chair, directed the Clerk to note that H. B. Nos. 1012; 2606, HD 1; 2842; 2708, HD 1; 2618, HD 1; and 2731, HD 1 had passed Third Reading at 5:23 o'clock p.m.

At 5:23 o'clock p.m., Representative M. Oshiro requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 6:28 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 613-02) recommending that H.B. No. 1729, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1729, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE TRAFFIC CODE," passed Third Reading by a vote of 48 ayes, with Representatives Davis, Kahikina and Pendleton being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 614-02) recommending that H.B. No. 2167, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2167, HD 1, pass Third Reading, seconded by Representative Lee.

At this time, Representative Djou offered the following floor amendment to H.B. No. 2167, HD 1:

Section 1. House Bill No. 2167 HD 1 is amended by deleting its contents and replacing them with the following, to read as follows:

"SECTION 1. The traffic enforcement demonstration project originally authorized by Act 234, Session Laws of Hawaii 1998, as amended by Act 263, Session Laws of Hawaii 1999, and Act 240, Session Laws of Hawaii 2000, began operations in December, 2001. The system has caused numerous disruptions to drivers and pedestrians in the State, and the legislature finds that the photo traffic enforcement system should be discontinued as soon as possible so that further review of the system can occur.

The purpose of this Act is to repeal the law authorizing use of a photo traffic enforcement system, and to reenact all provisions of the Hawaii Revised Statutes in the manner they read prior to being amended to accommodate the photo traffic enforcement system.

SECTION 2. Act 234, Session Laws of Hawaii 1998, Act 263, Session Laws of Hawaii 1999, and Act 240, Session Laws of Hawaii 2000 are repealed. Sections 286-45, 286-172(a), 291C-38(c), 291C-163(a), 291C-165(b), and 291C-223, Hawaii Revised Statutes, are reenacted in the form in which they read on June 30, 1998.

SECTION 3. This Act does not affect citations or summonses that were issued, penalties that were incurred, or proceedings that were begun before its effective date.

SECTION 4. As soon as is legally possible following the effective date of this Act, the state department of transportation shall terminate all contracts with private entities for the provision of photo traffic enforcement services under Act 234, Session Laws of Hawaii 1998, Act 263, Session Laws of Hawaii 1999, or Act 240, Session Laws of Hawaii 2000.

SECTION 5. All moneys in the photo enforcement revolving fund established by Act 234, Session Laws of Hawaii 1998, section 17B, as added by Act 240, Session Laws of Hawaii 2000, section 7, as of the effective date of this Act shall be transferred to the general fund of the State; provided that all funds received on or after the effective date of this Act as a result of photo traffic citations or summonses issued prior to the effective date of this Act that would have been deposited into the photo enforcement revolving fund shall be deposited into the general fund.

SECTION 6. This Act shall take effect upon its approval."

Representative Djou then moved for the adoption of the floor amendment, seconded by Representative Bukoski.

Representative Djou rose to speak in support of the amendment, stating:

"Mr. Speaker this measure relates to the infamous photo enforcement system. This particular amendment amends the current underlying bill and replaces it with the measure that is currently alive and moving in the State Senate. This measure

will repeal the traffic camera system. I would like to emphasize for the members of this Body, this may be your last and final time to vote on this issue which so many of our constituents have complained and spoken to us about. If you don't take a stand right now on this particular amendment, you may not have another opportunity to cast your vote on what you feel this photo enforcement system should be. Should it stay or should it go?

"I stand in strong support of this particular amendment because I believe the photo enforcement system should be repealed. It should be repealed, first and foremost, because in my opinion, it represents an unreasonable intrusion by government into individual lives. I have my own personal philosophy in politics and government that I think, can be described as fairly libertarian. I believe in limited government. I believe that the government should not interfere with individuals' lives. I believe that this photo traffic enforcement system is such an intrusion that should be done away with. More importantly Mr. Speaker, I believe that photo enforcement system is unfair.

"Many of my constituents have complained to me that this photo enforcement system is sort of a 'gotcha' law enforcement. It is a high-tech bounty hunter system. It captures not only the lawbreakers, but also law-abiding citizens. It is because of that basic inherent unfairness that we see so much visceral opposition to this photo enforcement system.

"Furthermore Mr. Speaker, the implementation of the system can best be described as terrible. Day after day after day, we see problem after problem after problem with the implementation of this system. Whether it is with how much tolerance is involved, or whether or not it is the use of strobe lights. Whether or not it is the information of where the traffic cameras are going to be located. Whether or not it is supposed to be funded with taxpayer resources or funded entirely out of the traffic tickets themselves. Day after day the public trust has been eroded and lost. For these reasons this traffic camera system is quite clearly a failure. We should recognize it is a failure and remove it and repeal this law immediately.

"Furthermore I would like to impress upon my fellow colleagues here in this House that if we absolutely, positively keep this traffic system, and I do not believe we should, I cannot understand what the rush is that we must pass the underlying bill and to try and save this system now. Let's recognize that we have made a mistake. Let's recognize that this is a bad law and let's repeal it. If you really want to save this system, take the interim after session, and work out the kinks of this system and try and come back. Because the fact remains the public's confidence and the public trust in this system has been lost, and we as legislators owe it to our constituents to repeal this bad system and this bad law now.

"For these reasons I strongly urge all of my colleagues here on this floor to vote in favor of this amendment. I would also like to remind my colleagues on this floor that this was drafted by the Majority counsel in the State Senate and originally introduced by the Senate Vice President and the Majority Floor Leader of the State Senate. So Mr. Speaker, with that, I urge strong adoption of this amendment. Thank you."

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

"Thank you very much Mr. Speaker and members of the House. I am kind of surprised that good people would feel that this is a program not appropriate for the State of Hawaii. This is a program that will save lives. Mr. Speaker, if we look at the record of fatalities in the State of Hawaii from speeding, in

1991 we had 91. In the year 2001, it went down to 60. This is from speeding.

"If you look at running of red lights, in the year 2000, there were 886 people were injured in crashes from red lights in the State of Hawaii, and 12 died in intersection injuries.

"If we look at some of the records that we have from other communities that have this, the Insurance Institute for Highway Safety studied an Oxnard California document. There was a 29% reduction in injury related crashes. This is for intersection safety cameras. There was a 32% reduction in front and side crashes, and 68% reduction in front and two side crashes involving injury."

"In red light violations, reduction in other cities, in Washington D.C. there was a 60% reduction in violations, and 87% reduction in red light running fatalities. In Baltimore, Maryland, they saw a 45% reduction in violations. Fairfax, Virginia, 40%. Charlotte, North Carolina, 55% reduction. If we look further in the photo enforcement program's successes throughout the Nation, in Tempe, Arizona, there was a 52% reduction in the average numbers of violation per hour. Portland, Oregon, a 30% decline in speeding. National City in California, a 50% reduction in speed related crashes in five years. Australia, in 1990, had 887 injuries. In the year 2001, it was down to 388. So Mr. Speaker and members, this program works, obviously.

"Now there are some perceived problems and we all admit that, as the way it started out. But as the good Minority Leader stated, let's repeal it and let's fix the problems. That is exactly what HB 2167 is doing. If we look at some of the problems, one is that the people were angry because ACS was getting paid per citation. They are calling it bounty hunting. So this bill provides that there will be one set rate, and not payment per citation. One set, negotiated rate.

Other changes. They did not like the idea that it affected their insurance because their insurance rates are going to be a factor. Well good people, for the first time in the history of the State of Hawaii, this bill provides that this will not affect your insurance rates."

Representative Hamakawa rose to yield his time and the Chair "so ordered."

Representative Souki continued, stating:

"Thank you very much Representative. For the first time in the history in the State of Hawaii, speeding tickets will not affect your insurance. This is not only for the State, but this is also for the counties' police departments. So there will be some consistency there. In fact if I can just go of course for a little while. There was a problem, I believe in Colorado, where someone brought a case against the traffic cameras where they said there were two different standards. The state had a standard in not affecting the insurance, and the police tickets did, but this cures this problem. So both of them will not affect.

"The bill even goes further. It says that if there is an accident and you're not the cause of the accident, the accident cannot affect your insurance rates. That is also included in the bill.

"What is also included in this bill is that we have it capturing the photo of the drivers from the front and not from the rear. From the front view. This technology is working in Denver right now and we hope that this will be incorporated here.

"Now, I am very disturbed that this community, and to some degree some members of the Legislature, have condoned the

breaking of laws. We have a speeding law that says that the limit is 55 miles an hour, and yet some of us assist those who go beyond 55, who are basically breaking the law. As lawmakers who make the law, our job is to protect and see that the law is upheld, and the same goes for the attorneys that are assisting the drivers who are obviously going beyond the speed limit. They are using every trick they can so that they can evade and make a mockery of the law. Ladies and Gentlemen, if you don't like the speed limit, then you should increase it. That is exactly what we are doing the bill that just passed. We just increased the speed limit. But you do not exceed the speed limit and say that you have not been breaking the law. We should not condone those that exceed the speed limit. For those that support these people I can only surmise that they do not condone traffic safety. For them, traffic safety is not the consideration, and I hate to say this, but maybe opportunism is the consideration and this is wrong.

"First and foremost, our responsibility, and we take an oath of office, is for the protection of our citizenry. That is our first responsibility, and sometimes we need to make decisions in the process of this. This law has historically shown throughout the world and the Nation, that it protects our citizenry. So with this Mr. Speaker, I would hope that we would support this measure. I think it is a very important measure and you are showing the courage to do something that is right, for those of you who are opposed and do not support this underlying measure. Thank you very much."

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

Thank you Mr. Speaker. I rise in strong support of the amendment. Mr. Speaker when we were in Committee and we talked about this with Director Minaai of DOT, I asked what I thought was a very cogent question. I asked him if the personnel in the vans were being paid an equitable amount with our police officers. The answer was, that yes, they were. While Davis-Bacon doesn't apply, basically they are paying a prevailing wage. I was assured that is commensurate with what it costs to hire a police officer. So given that we have exactly the same amount of 'out-go' for the State, well it would be the county in the case of police officers, we are spending the same amount of money for that person.

"Nobody really objects, and we've all had it for years, those radar and laser guns which a police operates. They set up speed traps, and while people don't like to get tickets, you don't see a huge public outcry, because they realize that this is a function of law enforcement and they get caught, and they go, 'Well, I got caught.' The human outcry here is because this is an entirely different program.

"Number one, it is not being run by law enforcement officials. It is being run by a private company. I have to tell you that I am 100% advocate of privatization where it gives you a higher or better result than government doing it, where it is not really a function that government should be doing or could do well, and thirdly, where it is cost effective. This isn't cost effective, and let me tell you why.

"If we took police officers and did not train them to be full rounded police officers to go to domestics and to go to different situations. If we took them and trained them to the extent that State police are trained. State police in most states, are like those you see on *CHiPs* on television. They are traffic control. So we have parking control officers. We could also have traffic control officers that are trained to a lesser degree than the common police officer or the average police officer. We could then put them on the street with radar guns. It is not costing us any more because we are paying the van drivers or the

company is paying the van operators as much as a police officer anyway according to the Department of Transportation.

"Of course we save the profit that the company makes. And furthermore, more important, we have a human being now. We have somebody who is trained in traffic enforcement that will not only see that the car is speeding, but go up and stop that car. When they stop that car they are going to check a couple of things. First off they are going to see if they have a license, if they have insurance, if the car is registered to them, if the person is sober or not. Contrary to the speaker from Maui, the former Speaker, when he quoted the statistics about traffic accidents and deaths. Let me remind you the vast majority of those not only include speeding, but the include alcohol or drugs as well. These camera vans do absolutely nothing to get that dangerous person who is traveling 70 or 80 miles an hour, it does nothing to stop that person as they drive around the island. Like I said, they may be drunk and they may a danger. Plus there is no check to see if this person is a felon, if this person has an arrest warrant or all the other things that would happen if we took that same amount of money and applied it to a traffic enforcement officer, a human being out there.

"I mean, I believe in automation for a lot of things. We all enjoy vending machines, but there are some things that automation just can't replace. This is very honestly one of them. We are not the kind of society that wants or tolerates anything like this. We want that human contact, and I think we, as legislators we would rather see police officers out there on our roads protecting our citizens and ensuring our safety. Additionally, beyond all that, when you have a traffic officer on the side of the road, that person is there to respond to any incident or accident that may occur. You don't have that advantage with the traffic vans.

"We have an opportunity today to correct a mistake. It was a well-intended idea, but it didn't work. So the solution, maybe if we pass this amendment that now, we might be able to find a way to work with the counties. Maybe change things a little bit, create some traffic officers and really look at what we all are concerned with. If we really are concerned with traffic safety and the lives of our people and their lives on the highways, if we are really concerned with that, this is not the answer. This will give us the opportunity to look at other vehicles like having traffic control officers who will be out there and on the roads, and the neat thing about that is we have our county police department then, who knows intimately where traffic problems may arise, or when different conditions arise, who can now dispatch their own men in a response time, that quick. The police department does not have that available right now. The DOT selects the points."

Representative Whalen rose to yield his time, and the Chair "so ordered."

Representative Rath continued, stating:

"Thank you. The DOT selects the areas where the vans are going. The law enforcement agencies in our counties have absolutely no control over that. I submit to you Mr. Speaker, that this is not right. They don't know where those fellows are, what they are doing. They could be in a place where the police don't have a problem. You need this kind of enforcement which is under the control of our police department. I know I have said I am a very strong advocate of privatization, but sometimes, like with buying library books, this just isn't working. I think we ought to pass this amendment and then together, I think both sides of the aisle can find a way to find a solution to our traffic safety problems."

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

"Thank you Mr. Speaker. The Speaker Emeritus alluded to our responsibility as legislators to pass laws and legislation to help the public safety. I also believe that it is our responsibility as legislators to invoke the people's will in the legislation and laws that we pass. I can tell you, from my point of view and from the e-mails and correspondence that I been getting from both sides of this issue, it has been 50 to 1 in favor of repealing these traffic cameras completely.

"I want to comment on a couple the statements that the Speaker Emeritus made in regard to this bill and this issue in general. He mentioned the success of other jurisdictions and what a success its been in other jurisdictions. I have a report here that I pulled off the internet and there were a total of 57 jurisdictions, all of which were county by the way, no state jurisdictions have implemented this program. We are the first. Of these 57 jurisdictions, the programs that were implemented prior to 1996, there are 20 of them that have been repealed. The remaining have all been post-1996 programs. That leads me to believe that some of these programs that have gone through the course of implementation and several years of actually working, those states have found that it is not working, and so they repealed it. The ones after 1996 are basically still in the trial mode, as we have been since 1998.

"He mentioned speed related accidents. He threw out some numbers, in 1991 there were 91 speed related accidents, in 2001 there were 60. I have figures here from the National Highway Traffic Administration. In 1999, there were 98 total traffic fatalities. Of those, 29 were related to speeding. Of the 29, zero were related to any speeding above 55 miles an hour. There was one that was equal to 55 miles an hour or lower. Another one was non-interstate highway. One at 55 miles an hour, the rest were all below 40 and 35 miles an hour. That is 29, so that is a big disparity between the numbers that we heard earlier.

"As far as red light running, he threw out some numbers: 886 occurrences of red light running; 12 fatalities; 60% reduction due to the cameras in Washington D.C. and 40% reduction in Fairfax. That is interesting because in Virginia, I believe it was repealed. The traffic cameras were repealed by the Governor. In Fairfax, they did a study. Instead of implementing traffic cameras, they lengthened the yellow light by 1 and a half seconds, and by doing so, they reduced the incidents at those two intersections by 96%. They almost doubled the 40% that the speaker is referring to by these traffic cameras. So if we are looking for results, I think we are getting better results by other conventional means, like extending the yellow lights or increasing our speed limits to the 85% level.

"He mentions H.B. 2167 as fixing the problems. I want to just mention that one of the many problems that I see in this version of H.B. 2167 which was originally a total repeal, and which I signed on to as a co-sponsor. It was totally changed and I say that if our intent is to create a safer highway, then it should be across the board to everybody using our highways.

"In this bill on page 30, in line 8, it gives basically, preferential treatment to visitors and tourists that use our rental cars. It gives the ability for rental car agencies, if they can't get the name and address of the lessee or the renter of that car, they simply have to pay a \$50 fee. How are we going to address the unsafe visitors that cause a lot of accidents in our State? How is the traffic camera system going to stop them from causing all the accidents? I know on Maui a lot of the visitors cause a lot of our accidents, a lot of our rear-end accidents. How is this program going to prevent that from happening? I don't see it. They'll get maybe a ticket in the mail, maybe a week or two later. But it is not going to prevent that accident from happening.

"I'll give you an example, a personal example. I was driving home from the recent Janet Jackson concert. I was driving home on the freeway here on Oahu and two Hondas came zooming past me doing at least 100 to 110 miles an hour. I turned to my children and I said that something is going to happen. Sure enough, ten seconds later, and the press can verify this, on the night of the Janet Jackson concert, by the Farrington off-ramp, ten seconds later they rear ended a motorcycle rider. I pulled over to give aide and assistance. Where were the traffic cameras there? Could that traffic cameras have stopped that accident from occurring?"

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

Representative Bukoski continued, stating:

"Would the traffic cameras have stopped that accident from happening? I don't think so. Even if the traffic cameras were parked right there they wouldn't have stopped it from happening. The racers in the Honda would have gotten a ticket a week later. Luckily, the motorcycle rider did survive with some pretty big injuries.

"He mentioned that the proponents or the supporters of this amendment condone breaking the law. I think that is a weak argument. You know we are for safety. We are for public safety. We are for highway safety. I am, but there are other conventional ways to achieve those same objectives without subjecting our driving community to these kinds of invasive and draconian types of enforcement.

"I proposed a bill to give our counties the ability to impose additional fines, over and above what the State imposes, in order to supplement the law enforcement that we have. Speaker Emeritus eluded on Second Reading, that part of our problem is a lack of enforcement. If that is the problem then let's address it. Let's increase our law enforcement. Let's supplement our budgets. Let's give the counties the abilities to impose additional fines over and above. We are doing it for a private entity and they are pocketing the money and they are taking it. Why can't we do the same for our counties and give them the ability to impose additional fines to hire more law enforcement, to pay our police officers a higher wage so that we don't lose them to other states.

"I talked to our police department and our Mayor from Maui. I have numbers that will give us six solo bike enforcement officers. The Lieutenant in charge of traffic control said, 'Kika, if you can get me six additional bikes we don't need the cameras.' Those six solo bikes, would be able to prevent accidents from happening. Pull drunk drivers off the road. Pull inattentive drivers off the road. Pull uninsured drivers off the road. Save lives. These cameras don't save lives. That is a lie.

"I hope that my colleagues will help to support this. There is a lot more I can say about it. I've got six inches worth of research that I have been doing on this. I've been following this issue for about a year and a half, but I hope my colleagues will listen to some of what I say and help support this amendment."

Representative Moses rose to speak in support of the amendment, stating:

"I am in support of the amendment, and it is difficult, as you can see, to speak about why we need the amendment without saying why we don't need the underlying bill. As previous speakers have said, the underlying bill purposes to make some amendments and fixes that would help the system as it is now. The problem is, I don't think much of that will work.

"I told you on Second Reading about how the police came to our Transportation Committee and said they wanted to be exempt from getting tickets from the camera. I asked, simply, why? They said that sometimes they have to go without their sirens and lights. They are either going to some kind of emergency where they don't want to alert the people that they are coming, whether it is a break-in or domestic dispute or possibly they are tailing somebody on the freeway to see how fast they are going and they are speeding in doing so.

"I brought up the point that no officer is going to pull you over first of all. If they do, you tell them why you are doing it. They are not going to pull you in the first place because they know why you are doing it because it is on the radio. Everybody is talking. They said simply the cameras would not know. They have a valid point.

"Also in the bill that is proposed, the underlying bill, H.B. 2167, it talks about the fact that you are guilty until proven innocent. That just burns in the stomach of Americans. That is not just the way we do business. Maybe in the Soviet Union that used to exist. Maybe they even do that in Saudi Arabia, but we don't do that here.

"Also we heard talk about from the Transportation Chair that now we are going to make sure its you because we are going to get your face. I explained to you that the vendor said he can't do that. He doesn't have the equipment now. The Speaker Emeritus said also on Second Reading that they do have that capability, but the vendor in the Transportation Committee said he can't do it. Maybe he can do it in six months. He doesn't know because he would have to go figure it out. He also offered that the glare on the windscreen might prevent a clear picture of the face. Of course when asked about at night he said the flash would blind you. I don't think that is very safe.

"For those reasons, I think we should slow down. We should slow down with trying to amend the bill that is flawed, and I am talking about amending it with the underlying H.B. 2167 that repeals the law and then tries to reinstate through amendments. That is not the way to do it. The bill doesn't work. The cameras aren't working correctly. They are not where they are supposed to be. It is not any of the discussion we've had in this Body since 1998. We're seeing the problems now. You see things getting thrown out of court so there are others that believe that there are problems, and we are going to see a lot more I am afraid.

"If you want to slow down traffic, put a police officer there. That will slow you down now, not three days later. There is no safety involved when you get a ticket in the mail. When you get pulled over now, you are going to go slow. Even if you don't get pulled over, you see that police officer on the side of the road. You are going to slow down. It is the same money so why don't we do it? We have some aversion to letting the counties have more police officers because if we do that we are saying, 'Wait a minute. We let them keep some money from tickets, then they are going to have a bounty on people. They are going to go out there and look for tickets to issue.' What are we doing now? We are paying a vendor. We are paying them a bounty on our residents. So for that for all those reasons I think we should pass this amendment, and do away with the traffic cameras. We have the right, right now, to stand up and vote the way we think: yes or no on traffic cameras. I hope we all do that."

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

"Thank you Mr. Speaker I would like to rise in opposition to this amendment. I'd like to look at this first from the point of legislative strategy. Currently the Senate has passed a bill to

repeal. So a bill to repeal this traffic enforcement program is alive and well in your State Legislature. Now if we were to go ahead..."

Representative Bukoski rose to a point of personal privilege, stating:

"Mr. Speaker, I was just wondering if we are here to discuss strategy or actually pass good policy to help the safety of the people?"

Representative Lee rose to a point of order, stating:

"That is not a point of personal privilege."

The Chair responded, stating:

"I don't believe Representative Bukoski has been aggrieved by this particular point of view and I think Representative Espero should continue on with his dissertation in reference to the proposed floor amendment. Representative Espero, please proceed on."

Representative Espero continued, stating:

"Now, if the House were to adopt this amendment, and we decide to repeal this bill, then come conference time we have two bills to repeal. What happens if we do decide one of the bills is okay, and then the Governor decides to veto that bill?"

The Chair addressed Representative Espero, asking:

"You are talking about the floor amendment. which is to repeal, right? Please proceed on."

Representative Espero continued, stating:

"That is why Mr. Speaker, we shouldn't pass the amendment to repeal, which is this amendment that the Minority Leader has presented on this floor. We want to pass a modification bill that we could bring to conference so if by chance, we are able to pass a modification bill that the Senate supports as well as, if we could get our other members of the House to support, then we would have a better chance of having a bill which the Governor can approve and look at a modified system.

"I am concerned Mr. Speaker, that if we present the Governor with a repeal bill, that he will veto that repeal bill. If he vetoes that bill, we would be stuck with the current traffic enforcement system as implemented January 1, 2002 and we will be right where we started. So that is one reason why I think that at this stage, we should move forward with this modification and see what we can work out with our Senate colleagues.

"Secondly I also have this email, which I would like to share with you. This is from a woman who supported the repeal or to get rid of the whole program. She writes to me:

Please change your vote on the speed cam. This is a major issue as you know, not just concerning the money intention behind it but the traffic hazard that its causing and the risk posing for drivers.

"Then she goes on in her letter and she ends with:

Be the forerunner in representing what truly is beneficial to the citizens of Hawaii. Don't be afraid to articulate it. People want leaders not just another political salesman.

"It was a very good letter from this woman. I did leave many points out. I responded accordingly:

Thank you for your input. I am working aggressively with DOT, Representative Souki, Senator Kawamoto and others regarding this issue.

"Then I clearly point out the modifications which the House has been discussing, specifically: the flat fee versus the percentage of the tickets that are commissioned; not having the citations on your driver abstract that is not affecting your insurance rates; the bill which we are looking at, in terms of raising the speed limits; and of course, targeting certain areas such as the school zones, such as the areas that already have had cases of speeding and accidents, and of course these areas where people are racing. And I shared all this information with her. This is what we are looking at. These are some of the options."

Representative Kahikina rose to yield his time, and the Chair "so ordered."

Representative Espero continued, stating:

"Once I shared with her some of the ideas that we are discussing, as well as the idea to repeal, I threw that into the mix, she answered me back after I wrote her:

Thank you Representative Espero. The changes you mentioned are very reasonable and I will support your position. Thank you for your prompt response.

"My whole point in this Mr. Speaker, is this. Many people in here are correct. The system as implemented is terrible. I think we all agree upon that. The system as is, is broken and must be repealed or it must be fixed. No one disagrees on that point. When I've spoken to at least 6 to 7 out of 10 people about the possible modifications that we are looking at, they are very open to that. They are not automatically closed minded, because I do believe people do feel that people have been slowing down on our highways. I've seen it. I think my colleagues have seen it. And I am hoping that we will keep this measure alive so that we would go to conference in a good position to negotiate what we feel is best for the State. Thank you."

Representative Bukoski rose to respond, stating:

"I'd just like to say that the previous speaker is a terrific salesman."

The Chair addressed Representative Bukoski, asking:

"On what point do you rise?"

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

"I just wanted to remind the previous speaker that I know that it is not common practice for the Majority to override a veto, but we do have that option. Thank you."

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

"Thank you Mr. Speaker, I am in opposition to the floor amendment. In opposing it, I would like to bring up a couple of concepts. The first one is legislative intent, and I always try to check legislative intent before I check the public opinion polls. In listening to a classmate of mine from Farrington High School, the former Chief of Police Michael Nakamura, I learned that the intent of the program, and he was one of the proponents back in 1996 to bring this program to Hawaii. He said this program was a traffic enforcement enhancement

program. Not traffic enforcement program. What he meant was that he wanted this type of program to help his police officers in assuring public safety. It wasn't meant to replace them. It is not panacea, but it was meant to provide support to the police department, because they cannot be everywhere.

"He did say that public opinion, a lot of times also say why are the police out monitoring traffic when they should be out catching criminals and busting criminals. So even if we advocate for more police officers, do we really want them on the streets monitoring traffic? He said that this program was meant also to help communities and the he envisioned communities asking for this type of enforcement. Indeed he did say that it was supposed to be targeted for those areas where there were high amount of fatalities or traffic and injuries due to traffic accidents. That brings me to the second concept.

"This is called a demonstration project, and this is exactly what it is. Maybe some of my colleagues may not familiar with demonstration projects, but in Health and Human Services we do it all the time. In Health and Human Services, it is not an exact science so sometimes you have to go out and demonstrate. You have to make the mistakes. You have to go out and try things in order to find out where the bugs are. But in the end, you try to take the best out of the program and see if you can make it work.

"I think that this is a concept; it is not a law. It is a Session Law, but it is a demonstration project that was meant to do exactly what it is doing now. We want to see how it works, to see how it can be effective, and therefore I think, that we should give it a chance. Wherever possible we need to make the corrections and perhaps at some point in time we need to turn this program over to the counties and our communities so that they can use it for their benefit. Thank you."

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

"Thank you Mr. Speaker. Boy, I am in a position to say I told you so, because I voted no two years ago, as well as the good Representative from Waimea who sometimes wisely follows my lead. Not often enough however. But in the passage two years ago, I did refer to these cameras as an awesome money making machine.

"Indeed, at the time we were told it could take two photos a second, and I don't know how many it can take now. Now there are people seated in vans and I am not sure whether that number still holds. This is an awesome moneymaker because apparently Lockheed Martin had originally developed these cameras and then they sold the business off to ACS or the parent company. That company paid Lockheed Martin \$825 million for this business. So it is a veritable gold mine and they're placing these machines all over the country and I am sure their going to make their money back pretty well.

"At the time I also said that our no-fault insurance rates would go up, and indeed that seems to be the case because apparently, we'll have to pass legislation to keep that from happening. I protested that this was an Oahu demonstration project whereby the money would go into the statewide fund. I felt that Oahu is always being penalized because we are always paying so much for parking fees. Parking meters are very expensive compared to Hilo where they still have one-cent meters. I think we are paying through the nose and I just did not want to see Oahu paying more for this. On the other hand I am sure that these machines can spread to the Neighbor Islands.

"I question the legality of ticketing a car and I will leave that argument to the lawyers. But we are ticketing the car and not

the driver, so we get a clear photo of the driver. I am not sure that we really identify that person. This is very much in question.

"There is another problem that I see with dual authority with policing our highways. We have the police who traditionally gave out tickets and policed our highways. All of a sudden we have the DOT doing the same thing. 'Tali-van.' The police now, theoretically, I see us getting maybe two tickets within a mile. That can happen and then what happens then? Do we have to pay twice?

"Originally this was a county bill. A previous speaker was mentioning that former Police Chief Michael Nakamura had supported this as a supplement to the police. But at the time he proposed it to the Legislature, it is my recollection, that this was a bill that the county wanted. The county wanted to control the cameras. Now the State DOT has kind of taken that away. I am not sure he would be so happy with the bill as it is now, because the HPD does not share in any of the fines that are given to the State.

"Lastly I have never seen a bill engender so much rage. It starts out as road rage, but folks I think it is going to end up as rage against the government, against politicians. It will translate against anger toward the government and I think we should listen to the people. It's not like we are legislating according to polls. But you've been getting the same emails as I have and I think we should listen carefully and try and make very judicious judgment. Please vote for the amendment. Thank you."

Representative Hiraki rose to speak in opposition to the amendment, stating:

"In evaluating this measure and other measures designed to promote safety, the question is: Will this help to save lives? With respect to promoting traffic safety Mr. Speaker, the traffic camera demonstration project was designed to make the roads safe by deterring excessive speeding. And as I recall at the time the law was enacted about five years ago, there was a problem of people dying in speed related accidents. I recalled at the time reading stories about people being killed on roads in Nuuanu, Laie, Kona and Kaneohe at the time. Communities and legislators at that time asked for help from Legislature to reduce accidents on the roads. The Legislature, at that time, responded overwhelmingly responsively in favor of supporting this traffic program both in 1998 and 2000.

"Mr. Speaker this high tech method to catch speeders is just one approach to promoting highway safety. Another approach taken by this Body to promote road safety is the implementation of our tough DUI laws as was previously mentioned. When we passed our original DUI law, there was much criticism from the public that the law went too far. That the DUI law infringed upon civil liberties. That the fines were too excessive. That the jail time was unnecessary and the license revocation was unreasonable. However after the implementation of our DUI laws, the evidence showed that this law worked and has saved lives, and today we think nothing but praise for our strong DUI law.

"Similarly Mr. Speaker, like the original DUI law, there is much criticism of this traffic camera program. This is not a permanent program. This is a demonstration project and I believe it ends in a little over a year. At that time, will the evidence show that this program worked and did it save lives? I don't know, but I do know that we won't find out if this project dies today.

"I will admit Mr. Speaker that this current traffic camera program is not perfect, either in implementation and

formulation, and it must be reevaluated. At one time Mr. Speaker, I also favored repeal of this program. But at this point, after further consideration Mr. Speaker, I favor that we fix the problems with the current program, but allow it to continue, so that like our DUI laws, we can fairly evaluate whether this program indeed saves lives. Thank you."

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

"I am against the floor amendment we have here tonight. Mr. Speaker and colleagues, the reason is that I am from the North Shore and I have the most dangerous road on Oahu. It is called Kaukonahua Road. In the last two years we have had 20 fatalities. Colleagues, I come to work every morning and I leave late from the Capitol at 10:00, and I go all the way to Waialua. Last year was the straw that broke the camel's back on Kaukonahua Road. We had three teenagers from Mililani who got killed on that road for a 'joy ride'. After that incident, the public outcry called for involvement from the City and County. The City and County was trying to take a look at ways of maybe having the road go one way, or the other way, or go through another way to Kam Highway. They have this program they talked about, a pilot program using this camera. We are still seeing if they will come to our side of the North Shore. Apparently it wasn't in inception yet.

"What the City and County did was provide police out there for two solid weeks. You would see how the people slow down. They slowed down, and within those two weeks, we did not have any accidents. But as soon as the police car left, the cars went right back speeding. The road that I've been describing is a 'snake' road as it goes down. If you don't know the road, the road is terrible. Every week, it seems, we always have a fatality over there.

"What I am asking my colleagues for is that let's just give this program a chance, because especially for the people on our side, especially in my area where the City and County and the people don't have the money to provide police. Basically the police there handle the jurisdiction of my area all the way to Kahuku. For them to cover that particular area and watch for speeders let's give this program a chance. Mr. Speaker, I am voting against this amendment. Thank you."

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

"I do think that the people got it right on this, and the project as it is currently being operated is a scam. I think though, I know we have talked about it, and we will talk about some more, of the safety issue and the merits of trying to get people to slow down. We can all agree that there should be more appropriate driving by all of us. The issue for me is simply that this program, as it is being implemented, and unfolded and currently in practice and in place has compromised seriously our integrity and the trust and confidence that people have in our government. I think that is really the issue that we need to address. I do feel that it has been seriously compromised. Notwithstanding the feelings people may have had towards government, towards your elected officials, as the results of the tragedies of September 11th, I think unfortunately, this program has eroded whatever goodwill might have existed then, and it has, in fact, exasperated the sense of utter distaste for the people in this building and the people that operate our government.

"With regard to the legislative strategy that was referred to earlier, I think the better course is, frankly, to adopt this measure wholesale, because evidently it is an exact replica of what the Senate is about to pass out. There would not be a Conference Committee. We could send it to the Governor, and

it could be done promptly before we even adjourn sine die this Session. We wouldn't have to come back to give the Governor his second override veto in a special session.

"Previous speakers have also referred to this as not a law, but a demonstration. Well that is just wrong. It is a law. People are being penalized by this now. They are paying fines. They are taking time out of their day to contest it, legitimately. The courts have dismissed these complaints on a legitimate basis because the DOT and the provider haven't had their 'ducks in order' as they should have. People are faced now with insurance premiums, which is a further burden on their cost of living. All of this because it has been flawed.

"We have the power tonight, as is our role, to change the law. The law is not our master; we are the masters of law. We can change it, and we should change it. It is much better than passing out what would be the underlying bill, and it would improve tremendously the underlying bill, which in essence is the 'I am sorry. I won't do it again' bill. We are coming back and we are eliminating the bounty hunter provisions. We are eliminating the insurance premium increases or the affect on insurance. We are trying to eliminate the technical problems and the legal issues. But all of this was known and that is why the people knew ahead of time it was scam.

"The implementation of this program was wrong. It should have been implemented in school zones; it wasn't. It should have been implemented near or not far outside of intersections where there is a high incidence of accidents because of speeding; it wasn't. Instead it is placed on the Pali Highway outside of the tunnel, on the part of the hill where the speed limit changes from 45 to 35, just after the 45 mile speed limit sign. It is unconscionable and people feel outraged by this, and they should. We need to set this aside now and come back to it. Let us all calm down a little bit.

"I think doing this is the right thing to do. It is not pandering. It is not playing politics. People are simply outraged. We should respond to that. I think that is appropriate. That is our role and we come back and we explain and we educate and we try it again. But in the mean time, to suggest that this not legal, and a demonstration, and to suggest that it has no consequence; it does. It has tremendous consequence, and not just to people's pocket book, but the non-financial cost, the cost of the trust that people place in us. I think that is why we need to pass this amendment. Thank you."

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

"Thank you Mr. Speaker. When this Legislative Session began, my colleagues had many bills and I would not sign a bill that would repeal this program at that time. Like my colleague from Waialua, I represent an area that has about 18 miles of Kam Highway where it is two lanes. It is a very dangerous highway. In 1995, ten percent of the fatalities in the State of Hawaii occurred on that small section of Highway.

"I took part in the traffic safety coalition that was formed, the Koolauloa Traffic Safety Coalition. These were just concerned citizens who were just heartbroken with the loss of life of their neighbors and neighbors' children, and they wanted to do something. There were all kinds of suggestions and the people participated, but they finally came down, after lots of conferring with the police as to whether we could have more police on a regular basis to use their guns and catch speeders, the police just said that they were stretched so thin that they couldn't provide that. So ultimately they came up with the idea that we should try to go with one of these photo enforcement programs. So in 1998, I was actually one of the proponents, and I worked very hard to try to get that kind of a law passed.

"As others have said here, the original bill was enabling legislation to allow the counties to contract with the vendor. As has been said, this was for communities. It was something to assist the police because they can't be everywhere. As the Representative from Kalihi said, these communities would get so frustrated with people racing down their streets. The police just cannot be there and this was going to be helpful. I sent out questionnaires to see how the people in my community felt because they have been very supportive.

"Well they sort of changed their opinion, and I really have to lay this at the feet of DOT, which really did a terrible job of educating the public. I can't understand why they did it. The vendor had signed a contract saying that they would put on the education program. Those folks have been in other communities and know the kind of things that people get upset about. They would have done a much better job to educate the public. But the DOT said, 'We'll do it. You don't understand the people here. We'll do it.'

"I started getting letters from people who were getting tickets at 5 to 6 miles over the speed limit. The judges are throwing those out as to minimus tickets. In the contract, the vendor put down that they figured their price at 11 miles over the speed limit. Of course it was ultimately up to the DOT to decide what that margin would be. Through the implementation of this program the DOT just decided that they would just keep bringing it down, and bringing it down. At one point the director said there would be no margin. The speed limit is the speed limit. You cannot go over everything.

"We all know that 85% theory is valid because most people are not interested in driving in a dangerous manner. Most of us, before the 'tali-vans' did not spend much time looking at our speedometers. We just went along with the traffic. That was certainly true on Likelike and Pali. Even now with all of the 'hubbub,' they're still concentrating on these same roads. I haven't heard of them in my district where I would have hoped they would be helpful.

"At the last Neighborhood Board, I went to find out how the people felt. Here were some of the leaders in that traffic coalition. They wanted me to hear all their concerns. They had done a total flip and they were not supportive anymore of this program, which really shocked me. They didn't even want us to see what we could do to make it better, or to take care of the more egregious problems. So I find myself in this very, kind of, uncomfortable position. Now, like others have stated here on the floor, that the sense of the public, they are so outraged, I don't believe we can make this right, and that is why I am supporting this amendment."

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

"Mr. Speaker, I have been sitting here listening to a lot of the arguments being made, and it reminds me of a Neighborhood Board meeting I had this past Monday in Wahiawa where we had a similar type of lively discussion. We talked about this issue. One of the things we talked about at the very beginning of the meeting was the description of the program. One of my constituents scolded me for referring to the program as being the 'tali-van' program. They said I was actually, by using that phrase, making light of the events of 9/11. So I apologized to that person. Yes, that is a derogatory phrasing of this program. It has nothing to do with the Taliban or Saudi Arabia or the events of September 11th. I told her that I hope that future media, radio and TV, would not use that phrase for it is demeaning to ourselves.

"As we got into the discussion about this program, I had a chance to share with them H.B. 2167, HD 1, again going back to legislative intent which the Representative from Kalihi said, it is so important. It is more important than mere polls or public opinion surveys. That also came up at the Neighborhood Board meeting.

"We also talked about the need to have further police enforcement and how this idea actually was generated from the counties. Like the Representative from Kalihi said, when then Chief Nakamura came to us and asked us for assistance in dealing with the speeding and the deaths occurring on our highways on Oahu and the Neighbor Islands, especially in the rural areas where the Representative from Waiialua is from. So we talked about those things and we all realized what we were basically doing was shirking our responsibility to address the problem, and basically saying it is a county issue. It is a county issue and we should have them hire more police, have them post a police on every street corner, have them post the laser solo bike operator on every highway. It got absurd, and so finally we realized that we had to deal with the present law at hand.

"Then I got into the meat, the real bullets of the bill, and I read from it like this: (1) This would prohibit an increase in the motor vehicle insurance premiums due to any speeding summons or citations. (2) It would require that the vendor pay a flat fee rather than a fee based upon a number or percentage of summons of citations issued. (3) It would clarify that they photo speed imaging detectors are intended to produce photographs not only of the speeding vehicle, but also the license plate, and most importantly, the operator of the motor vehicle. (4) That this was a demonstration project and it required people to show by clear and convincing evidence that the information was not correct. (5) That the implementation of this program will be placed in priority areas where the greatest number of problems are known to occur in terms of the number of speeding related accidents, fatalities or both, and areas where racing is known to occur, and school zones or areas that are affected by school related traffic.

"I then went on to say that there is another element in this measure here that upon termination of the traffic enforcement project, consideration should be given to transferring the projects to the counties, who should decide for themselves whether or not they would like to implement this project through their respective police departments.

"After that Mr. Speaker, the Wahiawa Board took a vote and they voted to support H.B. 2167, HD 1, and asked me and the Senator from that area to support this measure. So I am doing my job listening to my constituents Mr. Speaker, in supporting this measure and by voting down this amendment."

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

"Thank you Mr. Speaker. I will be brief. First of all I would like to reinforce the point made by three Representatives, the Representatives from Waiialua, Kona, and Makawao, that more police officers will deter speeding and fatalities. So I hope that we will help supplement our police departments, and use our strategy in that direction rather than with traffic cameras.

"Secondly and lastly I'd like to address the dubious logic presented by the Representative from Ewa. Too often we create bad legislation because of our unnecessary fear of vetoes. Our Legislative Branch is diminished and debilitated because of our complete aversion to overriding vetoes even when we pass bills by 100%. Thank you."

The request for a roll call vote was granted by unanimous consent, and the motion that the floor amendment to H.B. No. 2167, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC ENFORCEMENT," be adopted was put to vote by the Chair and failed to carry on the following show of ayes and noes:

19 Ayes: Auwae, Bukoski, Djou, Fox, Gomes, Halford, Ito, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Rath, Stonebraker, Takai, Thielen and Whalen.

30 Noes: Abinsay, Ahu Isa, Arakaki, Cabrerros, Case, Chang, Espero, Garcia, Hale, Hamakawa, Hiraki, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Souki, Suzuki, Takamine, Takumi, Yonamine and Yoshinaga.

2 Excused: Davis and Pendleton.

(Main Motion)

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

"Mr. Speaker, it has been discussed here at quite a great length, and I don't think this bill can be tweaked into a bill that is going to be effective. I think it is going to exacerbate the problems that we are still going to have, regardless. In respect to what we do for our citizens who are stopped and tagged with \$70 tickets that are done by automated vans, maybe the only bright spot in this is that when the vans are parked along the side of the road, right behind the vans where the cameras shine out in the coming months, that would be an excellent place for some candidates to sign wave so it may block the photo. Thank you very much."

At 7:40 o'clock p.m., Representative Nakasone requested a recess and the Chair declare a recess subject to the call of the Chair.

The House of Representatives reconvened at 7:54 o'clock p.m. with the Vice Speaker presiding.

Representative Djou rose to speak in opposition to the measure, stating

"Thank you Madame Speaker, I know we have had a lot of discussion on this matter so I will be extremely brief. I am rising in opposition. I would just like to emphasize that I know in the previous discussion regarding the amendment, we had a lot of discussion about this matter, and it being an issue of public safety. I don't see it in that way. I frame this particular vote on these traffic camera systems as a very basic and simple question. Do we want our residents to be subject to an arbitrary, capricious, and unfair law enforcement system? I do not. I believe we should respond to our constituents concerns. Our constituents are telling us that the traffic enforcement is unfair. The system has lost the public's trust and we should repeal this system. For these reasons I am standing in opposition."

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

"The DOT says that within an hour they are going to put a video camera right on the street where Representative Bukoski lives, and they are going to do it within one hour. So I said, 'That is good speed.'"

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

"I have heard from some of my colleagues tonight how they have gone to their Neighborhood Boards or emailed with their constituents and how they explained all the things that they are going to change with this amendment, and now their constituents believe okay, it's all right. Well what are they going to do when they have to tell their constituents it doesn't work? As I've told you, in Transportation Committee and talking to DOT and ACS, they cannot do some of the things that are in the amendment. So what are going to do then? We are going to be back here next year saying let's try to amend it again. Let's see what we can do now. How are they going to take a picture of a face? They said they can't do it. I brought it up in that hearing. What about if somebody wears a mask? I ask you, it is not illegal to drive with a mask. It is not illegal to drive with the sun visor down blocking half the face. It is not illegal. Or maybe it is. I don't know?"

"What if you go to court and say, 'That is not me. That person had a moustache and I don't have a moustache,' you know? I am just afraid that we can't take these pictures of the face. We can't prove it is the person that was driving. We are going to have problems again. People are going to be back in court. They are going to take time off to go to court, whatever it takes, and we are going to keep going back and forth with this for a long, long time. So I am voting no."

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

"I just want to make a few comments. I think we've had quite a bit of discussion on this item here. One major comment I think we should be aware of is that the police force, HPD, was asked to be the contractor by DOT. They felt that they could not do it. Only then did DOT contract with the private vendor. HPD did get the first chance to do that.

"Second item, of course as was mentioned, this is merely a supplement to HPD and the other local police forces. It was never meant to be everything; it can't. But it also can be a deterrent. As we have noticed ourselves, where the traffic has slowed down and we all have seen this morning's *Advertiser* where the van cams got credit for safety. There has been a drop in accidents in the last month, or when you compare it to last year. At this point Madame Speaker and members it seems to be working.

"This bill, moving along, needs to be corrected, there is no doubt. We hope to do it and this bill here will provide some changes, some very needed changes as we go along and work with the Senate and with the ideas from the members here from both sides of the aisle. Maybe as we go into conference we can improve it even more. We've all got to be open to this and if we all want to save lives, if we all want to control speeding, at least we have a vehicle here. Let's give it a try. Thank you Madame."

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

"I just want to make a couple comments in opposition about data and the power of government. I think the way that we are defending these speed limits and these white signs on the side of the road, we are kind of looking at them with this purity and innocence. They are perfect and thereby we allow, possibly, some of our constituents who might be going a little faster as these evil scumbags, scofflaws, and I find that rather offensive, because these are signs put up by humans, and I think that is why there is so much leeway even when they go to the courts. So the purity of these signs, I think we are misplacing our confidence in the signs too much.

"The second part I want to talk about is the data. I heard this comment that we notice that the traffic has slowed down. I come in through the merge every morning, and I go home late at night, and I cannot say that I see that. Many of you know that I have a scientific background. Now this is not data. These are opinions and we need to know that these are opinions. The way that you would look at this data, you need have this data over several months, several years, and you would have to do first and secondary linear regression. I know that some of you mathematicians and physicists in here might actually understand that and that is what you need to do.

"Then after you do that, you have to put the data points, and after you put in the 'talivan' or this van program, and then look to see how it has changed materially, not necessarily over one or two months or even a year or two. So before we make any judgments about the data or opinions about how fast you think that traffic has sped up or slowed down. I just want to caution that is not the way that data or facts are looked at, at least from the scientific perspective. For these reasons Madame Speaker, I am opposed to this bill."

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

"On our highways out in the Leeward District, we had some really deadly accidents and although there are flaws in that camera, some people who were really affected feel that they have been beneficial. So for this reason, thank you."

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

"I just wanted to thank my colleague from Mililani for pointing out the scientific aspects of the data that have been given to the media. I want to point out specifically the claim that the 30% speeders prior to this enforcement program dropped to 5%. I think that it is a totally arbitrary number and I can argue that it is using different methods of measurements pre-program versus post-program. So I think those numbers are totally invalid and basically you can argue it either way. Basically this has turned out to be a marketing issue and who can market it the best. I will keep comments really short. I apologize. I just wanted to comment or bring out two other issues that I didn't bring up before.

"The State of New Jersey outlawed these programs and prior to them outlawing these programs they did a three year comprehensive study on speeding and how it is related to accidents and fatalities. After that comprehensive study they outlawed the photo enforcement program in that State.

"I also want to point out that the Institute of Traffic Engineering has a handbook that determines how long the traffic light duration for yellow lights at intersections should be based on the approached speed, the distance of the intersection, and several other variables.

"I wanted to apply that formula to our situations here. So I went out one morning to Punchbowl and Vineyard and I timed the yellow light there. According to the formula by the Institute of Traffic Engineering, that yellow light duration should be seven seconds in duration, but that yellow light is five seconds. It is two seconds shorter than what it should be. It is interesting. I just read a editorial by a editorialist in one of our newspaper saying that he almost hit a family going through that intersection one morning, trying to speed through to beat the yellow light. And he was speaking in favor of this program. But should that yellow light have been extended an additional two seconds as proposed by the formula in our engineering handbook, then maybe he wouldn't have had that near miss.

For those reasons and many others, I speak in strong opposition to this measure."

Representative Moses rose to respond, stating:

"I am rising for the second time in opposition. I'd like to state that like my colleague from Mililani, I am also a scientist and a physicist, and you do have to do data exactly like you are taught to do it. You have to provide statistics and data points and you have to say with surety, not with belief, that this is so. That is not what we have been hearing today about how we really have saved people's lives. We've reduced accidents. We haven't reduced any fatalities. Nobody is speeding when the 'tali-van' is out there in the morning when we are trying to get to work. Nobody is speeding and dying on the freeways during that time. They are speeding, maybe 10:00 at night to 2:00 in the morning on some of the rural roads where I don't see the vans. Maybe they are speeding through intersections. I don't see the vans. That was what those vans were intended to do and they are not doing that.

"Also we got lectures, when we were talking about the amendment, about how we are condoning lawbreakers. I don't know if any of you ever voted on the speed limits. Did any of you ever vote on the speed limits on the freeways? No."

Representative M. Oshiro rose to a point of order stating:

"The speaker should not be addressing the members of the Body, but the Speaker."

Representative Moses responded, stating:

"Very well taken Madame Speaker, did you ever vote for the speed limits on the freeways?"

The Chair responded, stating:

"Representative Moses, I think that is an inappropriate comment. Can you wrap it up?"

Representative Moses continued, stating:

"The point is none of us never voted for the speed limits. The speed limits were just set. The State DOT they set them by rule-making authority I suppose. When I called and ask the Highways Division why the speed limits were 55, they said it is because it is the law and that is not true. It is a law because there is a sign out there. The signs are not in the right places or at the right speeds. So we've asked DOT to look at that and they are supposed to report to us. That my alleviate some of the problems and then we won't have all these people speeding at 35 miles per hour on the freeway where it is a big wide freeway, right by the Middle Street interchange. It is 35 miles per hour out there and there is no reason for it. So sometimes the speeds are inappropriate. Nobody says to speed, but make the speed limits reasonable and you won't have to worry about it in some of those areas. But there is going to be speeding on the rural roads where kids are dying now, and that is not where the cameras are.

"So we have got a lot of fixing to do if we think we are going to be able to save this program. I think it is better to have police officers and let them do their job. Let them go out. Let them stop people speeding now, not three days later when you get a ticket in the mail. That is not going to save these young people that are speeding. That is not going to save lives in an intersection. So Madame Speaker, let's do something that it is for safety, not for revenue. Thank you."

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

"As the Speaker of Emeritus said, it is early in the process and there is time to make needed changes as this bill moves through. I like the idea of giving the counties the option to take this over. I think one of the big problems that we've had so far is the fact that the Mayor of the City and County of Honolulu has simply stated that he doesn't want these camera vans on any City roads.

"In my district, I get calls from people who live on neighborhood roads who really would like the vans there and that is not happening the way this is structured now. I don't see the red light cameras in this bill. I hope that will be added as it moves through, so for those still worried about the implementation, I am still in favor of moving this bill through."

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

"Madame Chair, I am almost embarrassed to stand but I am voting on this with reservations. I have to say that I am known for my speeding, and I used to pride myself on how fast I could go from one place to the other. But since I received that citation and my insurance went up, I don't speed anymore and my husband is very glad of it. He is kind of glad for this, and I watch that photo camera. 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. 2167, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC ENFORCEMENT," passed Third Reading by a vote of 33 ayes to 15 noes, with Representatives Bukoski, Djou, Fox, Gomes, Halford, Ito, Jaffe, Marumoto, McDermott, Moses, Ontai, Rath, Stonebraker, Takai and Thielen voting no, and with Representatives Davis, Kahikina and Pendleton being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 615-02) recommending that H.B. No. 2245, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2245, HD 1, pass Third Reading, seconded by Representative Lee.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2245, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LEASEHOLD," passed Third Reading by a vote of 37 ayes to 11 noes, with Representatives Ahu Isa, Djou, Gomes, Halford, Jaffe, Kanoho, Leong, Morita, Moses, Ontai and Rath voting no, and with Representatives Davis, Kahikina and Pendleton being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 616-02) recommending that H.B. No. 2662, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2662, HD 1, pass Third Reading, seconded by Representative Lee.

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

Representative Case rose to speak in support of the measure stating:

"Briefly, there is much good in this bill, but it is half of a total package. The other half is contained in H.B. 1978, HD 1, which came out of the Agriculture and Water and Land Use Committees. I support this bill with its phantom half on the understanding I received from the WLU Chair, as well as Leadership, that either the other half will be added into this bill during the remainder of this Session, or else this bill or any Senate companion that does not contain the other half will not emerge at all. Thank you."

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

"Thank you Madame Chair. I wish to speak in strong support of this measure. Madame Speaker and members, this is truly landmark legislation because finally, after 24 years when the constitutional amendment was made effective, we have a bill that will address the problem that we have not been successful in doing, by conserving and protecting important agricultural lands, while still providing judicial, prudent, and effective administration of these important lands as is required by the Constitution, to provide the standards in criteria with which the State and counties will do it with.

"This bill represents interim work on the part of your Committees on Water and Land Use and Agriculture and is a product of the many people who participated in that discussion. And we would be remiss in not extending our appreciation to the Land Use Commission, the Office of State Planning, the Department of Land and Natural Resources, and the Department of Agriculture for their input in making this bill possible. This bill is still very much a work in progress, not only for this Legislative Session, but even more so after this Legislature adjourns, because that is when the real work will take place, in determining what should be classified as important agriculture lands, and which of the lands now in the agricultural district primarily marginal agricultural lands, would be converted in the one time transfer from agriculture to rural.

"This bill will provide safeguards, albeit at the time that all that ongoing work is completed. So we would, as this Session progresses, that we would make certain that some of those safeguards that are necessary to prevent, unfortunately, ongoing abuses. Those safeguards will be made effective immediately upon approval of this measure. Both your Chairs of Water and Land Use and Agriculture give assurance that we shall do that. Thank you very much."

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

"I just want to state a few comments and take some time because I do agree with the Chair. I really appreciate his comments that this really is a landmark piece of legislation. Although we had a lot of discussion on traffic cams, and that is the real important news of the day, we really need to take a look at what we are doing with our land use laws. That is why I wanted to take a moment just to bring a little bit of history to what we are trying to do here.

"Hawaii was one of the first in the Nation to really reform land use law back in the 1960s when we first adopted Chapter 205. According to the Senate Standing Committee Report 937 in the 1961 *Senate Journal*, this is what the purpose of the Land Use Law was back in the 1960s. They said the purpose of this bill is to preserve and protect lands best suited for cultivation, forestry and other agricultural purposes, to facilitate sound and economic urban development in order to promote the economy and general welfare of the State and to ensure the efficient expenditure of public funds.

"Later on they go to say that the State's highly productive agricultural lands are jeopardized by normal economic laws which encourage land owners to place their own particular pieces of land in the most profitable current use for which they can find in the market. Long-term agricultural leases are expiring annually. Because of the pressure of urbanization the landowners are reluctant to continue long-term renewals of such leases and the lessee is therefore discouraged to develop the land to its maximum agriculture production. If exclusive agricultural zones are not established to preserve and protect prime agricultural land from infringement by non-agricultural uses, the possibility of land speculation through inflated or artificial land prices may jeopardize the existence of major agricultural companies or activities. The most effective protection of prime agricultural land is preservation of open space and direction for urban growth, and that is through State zoning.

"They later go to say under Act 187, the 1961 Session Laws, No. 299, they say scattering subdivisions with expensive yet reduced public services is shifting prime agricultural lands into non-revenue producing residential uses when other lands are available that could serve adequately urban needs. These are evidences of the need for the public concern and action.

"So back in the 1960s we recognized that this was a problem in that there were abuses going on in our agricultural lands. Thereafter in 1976, the law was amended and we again tried to curb these uses according to the Senate Standing Committee Report 662-76 in the 1976 Hawaii State Legislative Session. They go on to say the purpose of agricultural district classification is to control the uses of land for agricultural purposes. This purpose is being frustrated by the development of urban-type residential communities in the guise of agricultural subdivisions. So we recognized it once again in 1976.

We also have the Constitutional Convention, which is the purpose and the real reason why we have gone forth with H.B. 2662. We are trying to put enabling legislation behind this important constitutional amendment. It is really important to look at what happen. If you look at it, according to page 667 in the Journal for the Constitutional Convention, it is very interesting to note that actually this constitutional amendment was, in fact, amended to exclude the earlier definition of farm and home ownership. What they found was that this could lead to abuses, and therefore they struck that language about farm dwellings and instead, focused on the need for protection of agricultural land. Based on that, I think it is very clear that if we are going to go forward with the purposes of this constitutional amendment, if we are going to carry forward what the Legislature in 1960 wanted when they enacted this revolutionary land use law, if we are going to carry forward in our duty in enacting the constitutional amendment, what we need to do is also carry forward with H.B. 1978. Thank you."

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

"Thank you Madame Speaker, if I may be allowed to emphasize further the significance of this measure as stated by the Chairman of the Water and Land Use Committee, in support. Colleagues, we all agree that agriculture will not survive without good farmers and good farmlands. With the absence of both, and without the Legislature's support, agriculture is dead. Growth in agriculture requires a consorted effort to reduce obstacles to farming and to improve our land use system, so that agriculture lands are preserved and protected for the future of farming. This must be a combined effort from everybody including the Legislature.

"If I may say it again, as stated by our Representative from the Aiea and Halawa area, the Constitution of the State of Hawaii mandates this Body to promote agriculture and protect and preserve agricultural lands. But 23 years later, the State of Hawaii has still not fulfilled this mandate and I believe that this bill is a positive step toward implementation of this mandate.

"The contents of this bill provide different criteria that may be agreeable to some stakeholders, but not to others. But it strikes a balance among the different needs and concerns of all stakeholders. So as he stated, this bill is a work in progress and would need to be improved, but again it is a good step and I support its progress to continue the process. Thank you very much."

Representative Thielen rose and stated:

"Thank you Madame Speaker. I am not quite sure whether I am rising in support with reservations, or rising against the bill. Let me just explain what I think I heard tonight. I know that H.B...."

Representative M. Oshiro rose to a point of order, stating:

"The speaker should be declaring whether she is speaking in support, or in opposition, or with reservations."

Representative Thielen responded, stating:

"Thank you I appreciate that. However I am going to be phrasing this into a question that I hope our Water and Land Use Chair will answer for me."

The Chair responded, stating:

"Do you want to call a recess so you can talk to him? Why don't we do that?"

Representative Thielen: "I don't mind stating it here, and then if he wants to call a recess, I will do that."

At 8:21 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 8:25 o'clock p.m.

Representative Thielen rose to a point of inquiry, stating:

"I have a point of inquiry, and I'll try to be as concise as I can with that. As nearly as I could tell tonight from the different comments on the bills, H.B. 2662, HD 1, is going to be amended through the process by including H.B. 1978, HD 1, and Madame Speaker, if that does not occur, if all of the provisions of H.B. 1978, HD 1, are not included in the H.B. 2662, HD 1, which would then be a subsequent HD 2, if that does not happen, then H.B. 2662 will not move out as a final conference draft at all."

At 8:27 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 8:31 o'clock p.m.

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

"I will continue, and I do appreciate the Chair of Water and Land Use for responding to my inquiry. I appreciate it very much. Madame Speaker.

"Now I am going to tell you, because we do not have control over what the Senate will do with this bill, that I am going to vote against it. Were the Senate to accept the exact version that we send over, H.B. 2662, HD 1, I do not believe that the protections are in there that are adequate to take care of our agricultural land. I don't mean to be overly skeptical of what they may do. But just because I don't want to be going in favor of a bill that they ultimately may say, 'Fine, we'll take it as it is.' Then I think that would be not in the best interest of our agricultural land.

"I wanted to just give a couple of little sentences from Hawaii's Thousand Friends who sent in a fax to, I believe, all Representatives, urging us to vote no on H.B. 2662, since it didn't incorporate the provisions in H.B. 1978 that do protect our agricultural land. H.B. 1978 requires that new development projects be examined as a whole, not piecemeal. That subdivisions with certain features associated with large residences receive extra scrutiny in determining they are actual farm dwellings. Then, Hawaii's Thousand Friends concludes, 'In other words, no fake farms. Just real farmers.' I think that maybe that slogan should go with this bill. Amend it in the Senate so we won't have fake farms but we will have real farmers and we will have the real agricultural land that is necessary so those farmers can thrive and so that industry can grow.

"I also note that safeguards are necessary and that we don't just look at agricultural land in the old definition. Because when you take a look at all of the different practices that are coming into play, where marginal land may now be really producing crops or species that are marketable, and we want to make sure that, that land is available for them. So just being, not skeptical, but being apprehensive. I am voting no on the bill at this point."

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

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

"Seriously with reservations, or strongly with reservations. The bill, as it is written now, deserves a no, but on the hope that H.B. 1978 will be included in the Senate for our consideration later on in this Session, I will go up. Also I am considering the possibility that I could be on the conference committee. So for those reasons I will be voting up."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2662, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND USE," passed Third Reading by a vote of 46 ayes to 2 noes, with Representatives Jaffe and Thielen voting no, and with Representatives Davis, Kahikina and Pendleton being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 617-02) recommending that H.B. No. 1842, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1842, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you Madame Speaker, I am going to be voting with reservations and I'd like to tell you why. This bill broadens the

duties and responsibilities of a pharmacist to include administration of vaccines or other biological injections prudent to a licensed physicians' order. I have concerns that Hawaii has no continuing education requirement for pharmacists. Thank you very much."

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

"I think there have been some concerns about the scope of the practice of pharmacists. Actually pharmacists are licensed to give injections and to administer some medication, but actually this is a patient safety issue. An example is if a physician would like his patient to be instructed in a certain drug such as Coumadin, which is a blood thinner. It requires a lot of monitoring and a lot of teaching. This would enable a pharmacist to teach the patient, outside of the acute care facility, so that the physician would know that the patient was using the drug properly and wasn't having bad side effects. So I think this a really important thing for the patient and the physician.

"Pharmacists are really an important part of our healthcare system and their contribution to patient care and safety is really great. I work with pharmacists every weekend and I really depend on them, because really they are the people who have the most up-to-date knowledge on the effects of medications. I do feel this bill will bring the practice of pharmacy in line with healthcare practices of today. By that, I mean, where you have a healthcare team, not just the doctor and the nurse, but you have the pharmacist, the doctor, the nurse, and the therapist. You have a whole spectrum of healthcare practitioners working together. Thank you Madame Chair."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1842, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PRACTICE OF PHARMACY," passed Third Reading by a vote of 45 ayes to 3 noes, with Representatives Fox, Halford and McDermott voting no, and with Representatives Davis, Kahikina and Pendleton being excused.

At 8:40 o'clock p.m., Representative Thielen requested a recess, and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 8:41 o'clock p.m.

The Chair directed the Clerk to note that H.B. Nos. 1729, HD 1; 2167, HD 1; 2245, HD 1; 2662, HD 1; and 1842, HD 1 had passed Third Reading at 8:41 o'clock pm.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 618-02) recommending that H.B. No. 1092, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1092, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONFLICTS OF INTERESTS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Davis, Pendleton and Stonebraker being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 619-02) recommending that H.B. No. 2818, HD 1, as amended

in HD 2, pass Second Reading and be placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 2818, HD 2, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"Thank you Madame Speaker. I am in support but with reservations pending the language to be worked out amongst the particular parties. 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. 2818, HD 2, entitled: "A BILL FOR AN ACT RELATING TO FIREARMS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Davis, Pendleton and Stonebraker being excused.

Representatives Hiraki and Hamakawa, for the Committee on Consumer Protection and Commerce and the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 620-02) recommending that H.B. No. 2412, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 2412, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"Madame Speaker, this is another mandate for business that they maintain these offices and what it does really is it creates a higher cost and stifles competition. That of course affects those of us who buy the services, and it is just one little tiny chink in that anti-business armor we seem to have in this State. Thank you."

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

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

Representative Ontai rose and asked that the clerk record a no vote for him and the Chair, "so ordered."

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

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

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

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

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

"Madame Speaker, I rise in strong support of this measure. I just wanted to explain that this is actually isn't an anti-business law. This is trying to encourage and help the adjusting insurance industry here in Hawaii. What is happening is that

you have these mainland corporations that have operations all over the entire United States, and what they are doing is they are not using local adjusters. Instead they are just using adjusters wherever they have them on the mainland. Those people are handling the claims.

"The problem is that the adjusters here that are handling claims, have to be licensed here. They have to go through specific education, take a test and get a license so that they can properly handle claims here. However, there is a loophole in this law. What is happening is that these mainland companies that have peripheral offices here, but not really adjusting offices, are actually having adjusters handle claims up on the mainland. That is a problem because it takes away from local businesses here that legitimately have licensed professionals to handle these claims. So I really don't see how this is anti-business at all. If you want to help Hawaii's businesses and you want to make sure that claims get handled properly according to Hawaii's law, because laws do differ all over the Nation, if people aren't aware of that. If you want to have those kinds of protections here for our claims, and our customers of those services, then you will vote for this bill. Thank you."

Representative Rath rose to respond, stating:

"In short rebuttal. The reason it is anti-business is very clear. We over-regulate businesses and put compound requirements on people that want to do business in the State of Hawaii, thus increasing the cost for our citizens to buy services such as insurance. Mandating that these mainland insurance companies, basically United States Insurance Companies, have adjusting offices here, we increase the cost for them, and therefore the costs of premiums, and the cost of premium is what we pay. What we should be doing instead of adding this additional mandate is to reduce the regulations and not require the licensing and schooling for adjusters and all this other kind of stuff. Let business flourish in the State of Hawaii so it is more competitive, so we don't wind up with the problems we had with Iniki. So we don't have the problems we have with gasoline. So we don't wind up with the problems with all the other non-competitive businesses we have in the State. And that is why I oppose this."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2412, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURERS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Djou, Gomes, Halford, Jaffe, Moses, Ontai, Rath and Whalen, voting no, and with Representatives Davis, Pendleton and Stonebraker being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 621-02) recommending that H.B. No. 2413, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2413, 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 Davis, Pendleton and Stonebraker being excused.

Representatives Morita and Hiraki, for the Committee on Energy and Environmental Protection and the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 622-02) recommending that H.B. No. 2333, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 2333, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"Madame Speaker, it is my contention that our State government regulates far too much of business and commerce here in our State. We wonder why our gas prices are often times just too high. I think this is one representation of this. We constantly are going around and it seems like every in other years, we fiddle around and change divorcement rules regarding gasoline dealers. Here, this represents yet another more tinkering of it. We have too much regulation. We shouldn't be regulating this. We should be going for deregulation. That is what I support, and that is why I am opposing this measure."

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

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

"This is part of the divorcement law, the part that is called 'once a dealer-operated station, always a dealer-operated station.' Over the last eight years, the business of gas stations has changed dramatically. The divorcement bill was started to try to save the 'mom and pops.' Then it was trying to save the independent dealers. Now it is trying to keep the oil companies from getting too much power in the gasoline retail business. Many of the dealers now are coming in here and saying that we should get rid of this. They are not looking for protection anymore. They have come full circle. They have found that the divorcement law is actually creating a huge problem for them.

"This bill, that is being amended, previously it would have allowed an oil company or jobber to run the station for two years while they were trying to look for another dealer, if the dealer had given up his lease and left. Then, the bill as introduced this year, was going to make that period shorter, to 90 days. Basically, three months instead of two years. The oil companies said it is almost impossible to find a new dealer that quickly. Now we have amended it to six months. We just keep tinkering with this business.

"What is going to happen for some of the dealers who have prime locations, and where they upgraded their stations to the more modern ones that have fast foods and things like that is, they have a business that somebody might be interested in, but probably the only buyer would be the oil company. They are precluded from selling it to them. The business is changed. We have high volume discount stations. They are the newest trend in service stations. So some of the dealers that have the more attractive service stations are going to be unable to sell to the ready and willing buyer, who is probably the jobber, because we continue to meddle in this business and we don't let the market place just take its course. Thank you."

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

"Thank you Madame Speaker I'd like to register a no vote and reserve my comments for Third Reading."

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

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

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

"This is another vehicle that we would like to keep alive while we look at the complex issue of gasoline prices. This issue is not new to your Committees on EEP and CPC. This particular matter has been viewed as a loophole in the divorce law for many years, and we have been trying to address it. I just wanted to bring this to this Body's attention. In a quote from the *Wall Street Journal*, it says, 'An oligopoly can allow big businesses to make big profits at the expense of consumers and economic progress. It can destroy the competition that is vital to preventing firms from pushing prices well above costs and to forcing companies to change and die.' This is what is happening with these dealers, because we have a situation of an oligopoly.

"There may be some unfair business practices that are happening, but again, until we can have the records available to us for review, until we learn the terms of the settlement, until there is another case in the federal court regarding rent control and the rent control provisions of the divorce law, until all of those could be examined and looked at carefully, we need to keep vehicles alive, and that is what we are doing here. Thank you."

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

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

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

"This is kind of a perverse bill because the original motive for moving this bill forward in the previous Session was to get rid of the divorce restrictions on the free sale of gasoline stations, and this one comes to us with a further restriction on the sale, restricting the amount of time that this gasoline station is available for resale.

"People want to use the word oligopoly. They should basically understand that the way to deal with oligopolies is to increase competition. If we got rid of these divorce procedure bills that restrict the amount of gasoline stations we have, we would increase competition, that would lower the prices, and that would drive the price down. That is the way the United States has looked at in dealing with oligopolies, to increase competition. Somehow we are getting it backwards in Hawaii. Thank you Madame Speaker."

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

"I'd like to see it kept alive and maybe I can get on the conference committee and do some real damage to 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. 2333, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GASOLINE DEALERS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Bukoski, Djou, Fox, Gomes, Jaffe, Marumoto, Meyer, Ontai and Rath voting no, and with Representatives Davis, Pendleton and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 623-02) recommending that H.B. No. 1822, HD 1, as amended in HD 2 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1822, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE LEGISLATIVE ANALYST," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Davis, Pendleton and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 624-02) recommending that H.B. No. 2566, HD 1, as amended in HD 2, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2566, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Davis, Pendleton and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 625-02) recommending that H.B. No. 2423, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2423, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC WORKS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Davis, Pendleton and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 626-02) recommending that H.B. No. 2481, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2481, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL SERVICE EXEMPTIONS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Davis, Pendleton and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 627-02) recommending that H.B. No. 2515, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2515, HD 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE CHILD AND ADOLESCENT MENTAL HEALTH DIVISION," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Davis, Pendleton and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 628-02) recommending that H.B. No. 2420, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 2420, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2420, 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 Davis, Pendleton and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 629-02) recommending that H.B. No. 2381, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 2381, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

Representative Kahikina rose to speak in support of the measure stating:

"I stand in strong support of the measure."

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

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

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

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

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

"Thank you Madame Speaker. I am with reservations until I can find out whether there was any testimony in support of the measure. I see that the Department of Taxation opposed it and Tax Foundation had comments but they were not in support, so it makes me wonder if the bill went through the process and had no favorable testimony, but went through anyway. 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. 2381, 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 Djou, Gomes, Ontai and Rath voting no, and with Representatives Davis, Pendleton and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 630-02) recommending that H.B. No. 2720, as amended in HD 1, pass

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

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 2720, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

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

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

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

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

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2720, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE USE TAX," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Djou, Gomes, Halford, Jaffe, Meyer, Moses, Ontai and Rath voting no, and with Representatives Davis, Pendleton and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 631-02) recommending that H.B. No. 2639, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 2639, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"No vote please. This is just another useless committee."

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2639, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII COMMISSION FOR NATIONAL AND COMMUNITY SERVICE," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Djou, Moses and Rath voting no, and with Representatives Davis, Pendleton and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 632-02) recommending that H.B. No. 2827, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 2827, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"It is commendable that this Body is working on a bipartisan approach to do what is right with these special funds. I know the Minority has advocated for a long time to rid ourselves of many of these funds that aren't serving their proper purpose. So I am pleased the Majority is acting on that.

"The concern about the bill that I have, actually two things, if I may with your indulgence, on page 5 of the bill, on lines 4 and 5, it requests that the Department of Budget and Finance conduct various audits of the various funds. Whether we can have the Executive do that or not, I am not sure. But I thought it would be more appropriate for our Legislative Analyst to do that, should that be funded this term.

"The next concern I have Madame Speaker, is on page 6, in section 3 of the bill. We will be amending Section 328L-3 of the Hawaii Revised Statutes, otherwise known as the 'Rainy Day Fund', to allow education, as one of the measures, to be used for purposes of the fund. I just have a concern. As worthy as that might be, and the committee report informs us that education is important, and higher education in particular, and that we want to see the University of Hawaii succeed and flourish with regard to its various initiatives. Nonetheless, I am a little concerned because as worthy as that cause is, there are many other worthy causes too that we want to be sure to have the appropriate funding, and we can add other things in addition to education. So I would just call the members' attention to that particular aspect of this bill. But otherwise again, I am glad that we are working, seemingly, on a bipartisan approach to do something worthwhile with those other special funds."

Representative Djou rose to speak in support of the measure

"I quite frequently rise up in opposition to the creation of too many special funds so I should rise in support and compliment all members on this bipartisan effort to reduce the numbers of special funds. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2827, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE FINANCES," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Davis, Pendleton and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 633-02) recommending that H.B. No. 2654, HD 1, as amended in HD 2, pass Second Reading and be placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 2654, HD 2, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"At the very first Finance Committee meeting, I had told the Chairman concerning the Hurricane Relief Fund, that if you are going to steal it, just steal half, and give the other half back. So I seem to be 50% effective. I would rather see the entire amount given back for obvious reasons, for reasons I would, in greater detail talk about on Third Reading. This was a mistake to read this and the scare tactics used about throwing kindergarten kids on the street was really not very wise.

"Nonetheless we should be addressing the size of government and not raiding this Fund. This Fund should be treated like a captive insurance company and should be given back to the people who paid into it. That would give us some economic vitality that we lack."

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

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

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

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

"I realize that this is Second Reading, but on an issue of this import, which really epitomizes an entire larger policy choice which faces this Legislature, a policy choice which has been overdue for some years, perhaps even longer maybe even than a decade, and that choice is whether to balance a budget, that continues to be unbalanced, by increasing spending or by reducing expenses, I think it is appropriate to identify the issues and some of the possible solutions and perhaps frame some of the debate for Third Reading.

"Let's be clear, first, about what this bill does and doesn't do. This bill has three separate, distinct goals. The first goal is found in Part One, and that proposes to utilize a portion of the Hawaii Hurricane Relief Fund for hurricane mitigation. The second goal is found in Parts Two and Three of the bill. That goal is to take \$100 million of the Hawaii Hurricane Relief Fund balance and apply it to general fund expenses. The third goal of this bill is found in Part Four, and that goal is to appropriate roughly \$83 million, as I understand it, to miscellaneous programs spread out throughout the State; frankly, it sounds like spread out around various legislative districts.

"There is no integration. There is nothing that hangs this bill together. Those are three separate parts. So there is no reason to put together all of these three separate goals in one bill other than the obvious one, which is to make it appear that we have no choice; that we must take from the HHRF in order to finance these \$83 million worth of programs.

"In doing so, what this bill tries to do is to build a house and ask me to live in it, with all of its imperfections, and tell me that this is the only house that I can live in. I choose not to do that. I choose not to live in this box; to flail away in this box.

"This is my house, my box, and I decide the way that I choose to look at this. First of all, I have no objections to utilizing the HHRF for hurricane mitigation. I think that is an appropriate use of the Fund. If we want to make a policy call to do that, then that is fine with me.

"Second, I have very vociferous objections to the second goal, which is the utilization of any portion of the HHRF for any general fund uses, for three or four basic reasons.

"I would like to summarize for Third Reading. Basically, first of all, it wasn't collected for that purpose, and it shouldn't be used for that purpose.

"Second, we need to retain that Fund for disaster purposes. Now I know there is a general obligation bond float in here, but that is simply replacing one consequence with another consequence. If and when that hurricane comes along, we are a hundred million dollars down. We would have to borrow the money and we simply increase our overall debt ceiling, our overall debt service. We haven't solved anything at all. We just found an excuse to do it.

"Third, to me, it is just a desperate stretch to generate revenue and avoid expense reduction.

"Finally, it is one shot. If in fact we utilize this money to pay for that \$83 million worth of programs, or of any other \$83 million for that matter, what are we going to do a year from now? The money is pau. It's gone. Finished. What are we going to do then? Are we just hoping that somehow \$100 million of additional revenue will float in off of an improved economy between now and then?

"Now I have no objections, in theory, to the third part of this bill which is to appropriate \$83 million for these programs. I look at the list of programs and I think, 'Yes, I could vote for any, or perhaps all of those programs.' I could prioritize those programs over other costs of government. I could say to myself that any one of those programs is worth paying for and find the money to do it out of general revenues, or all of them, and find the money worth paying for out of general revenues. So I have no problem with that.

"But the question is, why are we picking these programs to fund out of this means? Who presented these options to us? I mean, what are the other options? Why do I have to accept these programs as the only ones that have any consequence if I don't go with the utilization of the \$100 million? What about other possibilities for reducing expenses in order to prioritize these programs? What about increased government efficiency? What about horizontal reductions in cost? What about other core programs or non-core programs?

"You know there are other options. These are not the only options to face.

" So I guess, to sum up, I've got a couple of things to say. First of all, if any colleague opposes the use of the HHRF for general fund purposes in principle and wishes to stay true to that principle, as most of us have said when we filled out various surveys, and as most of us have said throughout this Session, there is no reason whatsoever to be tempted from that path by this bill. You will have lots of opportunities to evaluate and fund your particular 'pet' program if it is on this list..."

Representative Schatz rose to yield his time, and the Chair, "so ordered."

Representative Case continued, stating:

"...other than this particular approach. You can choose later on to prioritize your program over other programs of government, or to find some other source of revenue if you want to, but you don't have to vote for this bill just because it's paired up with the use of the HHRF. Don't live in that box if you don't want to live in it. This is a box somebody else built, not your box.

"In fact, I think perhaps the best approach for us to follow on Third Reading is probably to have an amicable divorce of the parts of this bill. Perhaps we should take them up separately. Perhaps we should simply vote up or down on the question of whether to use the HHRF for any general fund expenses. And once we make that decision, then we can decide -- if we decide, to use the Fund for any general fund expenses -- then we can get on to the next question of whether to use the Fund for these particular programs, or for some of these programs, or for all of these programs, or for other programs. Let's not have to feel, anybody in this room, that we have to make a decision which is all one integrated package.

"This is not an integrated package. It is our choice whether to develop an integrated package. The only question we have to deal with right now is a policy matter in this bill, which is: are we going to use the HHRF for general fund purposes or aren't we? That is the question to be addressed on Third Reading, and the procedures to get to that question need to be utilized when we get to Third Reading. Thank you."

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

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

"Thank you Madame Speaker. Again I realize this is Second Reading so I will attempt to be brief and keep most of my comments until Third Reading. Nevertheless Madame Speaker, I would like to make very, very clear what this measure is about. This measure is about stealing the money from the Hurricane Relief Fund. It is trying to do it by baiting our members into doing so. I'd like to remind the members of this Body, right before the start of this Legislative Session, the Finance and Ways and Means Committees held a number of hearings around the State. If there is anything that came out from those hearings it was a crystal clear statement by our constituents to say not to raid the Hurricane Relief Fund.

"We followed that up with numerous promises by members of both sides of the aisle saying that we are not going to raid the Hurricane Relief Fund. Here we are with this bill and this bill is going to do exactly what we promised we weren't going to do, which is to take money out of the Hurricane Relief Fund to pay for our budget deficit. It does it in a manner using a legislative 'sleight of hand.'

"The Representative from Manoa broke down the parts of this bill. That is, part one contains a provision regarding hurricane mitigation. Parts two and three is the theft of the HHRF, and part four is the bait. I would like to urge all the members here in this Chamber, that although you may be tempted to take the bait contained in this particular piece of legislation, I urge you not to because if you seize that bait, you will be biting on to the hook of breaking your promises not to raid the HHRF. For these reasons, I stand in firm opposition to this measure."

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

"Madame Speaker, I guess members on the floor have indicated what they see, as to what this bill does and what it doesn't do. I'd like to have my opportunity. I guess for me, what this bill does is it faces up to the realities that we all face today. I think the bill faces up to the realities and the economic consequences of what happened on September 11th. I think what this is, is an attempt to deal with those consequences and still fulfill our responsibilities to the people of Hawaii.

"Let me indicate, since others have indicated what they feel the bill does and doesn't do. Let me address first, one of the concerns indicated by the previous speaker, about the growth of government. While expressions, implications, may be made about how this allows government to continue to grow and grow, as it should not. Let me talk about what cuts, what reductions, will occur even if this bill passes. Even if this bill passes, because of the realities of 9/11, even if we pass this bill, and all of the programs that are funded in the DOE Madame Speaker, we will see cuts in government funding. We will see elimination of programs. We will see deletion of positions. To give you some specifics, the computer education program, as important as that was determined to be by the DOE, that would be eliminated. Summer school. The summer school program will be eliminated. Fine arts resource teachers, program funding for that will be eliminated. The Marine and Aquatic Education Program, which is a popular program in the DOE, will be eliminated. We will see drastic reductions in the A-Plus After School Program, which has proven its worth and value to the people of Hawaii.

"We will see significant reductions in the English as a Second Language Program. Also significant reductions in the Hawaiian Studies and Language Emersion Program. Also significant reductions in the Gifted and Talented Programs. And despite the forecasts of shortages in school administrators, both principals and vice principals, we will have no choice but to reduce funding in the principal and vice principal incentive funding program. I just highlighted a few of the things that we will see, reductions that we will see, cuts in the Department of Education. And that's just for starters.

"At the University of Hawaii Madame Speaker, this Legislature, this House has been consistently committed to investing in education because we saw that not only as fulfilling our obligation to future generations, we saw that as a positive commitment to improving the economic climate of this State. Yet given the realities of 9/11, we are reducing the University of Hawaii's budget by almost \$6 million. What that means is reductions, cuts in programs at Manoa, UH Hilo, UH West Oahu, as well as the community colleges. The realities are that we will see cuts even if we pass this bill, and save some of the programs that are indicated in it. We will see reduced..."

Representative Magaoy rose to yield his time, and the Chair "so ordered."

Representative Takamine continued, stating:

"Thank you. We will see services that are deemed critical. Services in the health area, developmental disabilities, Home and Community-Based Medicaid Waiver Program, reduced substantially. We will drastically reduce grants for Wahiawa General Hospital, we are talking about basic healthcare. We don't have much choice but these services will be cut or drastically reduced.

"Even in the Human Services area, even though we know many families are still struggling with the consequences of 9/11. We will see substantial reductions in assistance to the aged, the blind, and the disabled. Who amongst us want to do that? This is part of the realities of 9/11 Madame Speaker, and it will hurt people.

"Public Safety. As important as the Department and its functions are today, we will see elimination there. We will see deletion of funding for the OCC J-Block expansion program. Again I don't want to overdo this Madame Speaker, but again it is important that we understand the realities that we face.

"Under the AG's office we will see cuts in funding, not only for litigation expenses, but for the counties' Career Criminal

and Victim Assistance Programs. All of the counties' Prosecuting Attorneys offices have made so clear how important this program is, but despite that, will be reduced drastically.

"We will see cuts in funding and deletion of programs in the Public Utilities Commission in the departmental administration programs under Budget and Finance, in the Office of the Public Defender. We will see further deletions in the Human Resources Department in the areas of the Recruitment and Examination Division, in the Labor Relations Division, in the Merit Appeals Board.

In Agriculture, deletion of position in the Plant and Pest Control Branch, the Agriculture Commodities Branch, in Agriculture Development and Marketing, and these are only some of the highlights.

"There are similar cuts, similar deletions of positions, similar elimination of programs in the Department of Accounting and General Services, in the Department of Land and Natural Resources, in the Department of Taxation, in the Department of Business, Economic Development, and Tourism, in the Department of Labor, in the Department of Hawaiian Home Lands, as well as the Judiciary. That is the reality of 9/11.

"Madame Speaker there has been much said tonight about what this bill does with respect to the HHRF. I'd like to cover a couple of those too. What it does is it capitalizes the Fund. It does provide for general obligation bonds to make the fund whole, notwithstanding the fact that a \$100 million is being transferred to the general fund.

"There is a wind mitigation program included in the bill. Just for clarification, let me just take a moment to describe that, because the pilot program, which was pursuant to the recommendation of the task force, giving home owners grants for improving their homes to be resistant to hurricane force winds, and gives us the best of all worlds. We reap a quadruple benefit from this program, first by giving grants, up to \$2,100 per resident, to install roof tiles, deck improvements and foundation tiles, and we make Hawaii's homes safer in a hurricane and decrease the damage the next hurricane can do.

"Number two, by making Hawaii's homes more hurricane resistant, we decrease the liability exposure of Hawaii's home insurers. Less damage from a hurricane means less money paid in claims, and less of a profit loss for insurance companies. This makes Hawaii a more attractive, and less risky market for insurance companies and decreases the chances that we will have another exodus of insurers should a hurricane hit. This also means that it is less likely that we will need to reactivate the HHRF.

"Number three, homeowners who hardened their homes, generally could also receive a discount on their insurance premiums. Less money paid to insurance companies is more discretionary income for homeowners. Another bonus for Hawaii's economy.

"Fourth, we can create jobs for the construction crews and inspectors who will do the work. There is enough money in this program to benefit thousands of homeowners. Enough to make a significant contribution to Hawaii's hurricane preparedness and to Hawaii's construction industry. This money will benefit Hawaii homeowners, Hawaii workers, and the Hawaii economy. This is part of what the hurricane relief provisions do in this bill.

"Let me get to the point referenced earlier about whether you like what is in the bill, what is funded or not. Let me respond this way Madame Speaker. Essentially when you look at what

is funded in the bills, there are two basic purposes, two basic goals that were attempted. One was to be responsive to the communities' concerns that we invest in education. I believe that other colleagues on the floor will be able to elaborate on exactly how that is done.

"Number two, to retain essential service especially for the many families that are still struggling with the consequences of 9/11. If you'll indulge me Madame Speaker, let me repeat that: one, be responsive to the communities concern that we invest in education; and two, to retain essential services especially for the many families that are still struggling with the consequences of 9/11. I guess what I find somewhat curious Madame Speaker, is that..."

Representative Hamakawa rose to yield his time, and the Chair, "so ordered."

Representative Takamine continued, stating:

"One thing that I find curious is that while members will rise and be critical about the effort that was made in this measure, throughout the period from the beginning of session, on multiple occasions, members have been asked for their inputs for specific cuts, if that is what they believed in or if they believed in generating more revenues. What specific suggestions did they have? We discussed one suggestion yesterday. Despite all that you hear, all the rhetoric about downsizing and rightsizing government, there was one measure that talked about restructuring of government. I think while we all generally agree that there was a lot of room for further improvement, that vehicle came out of the Majority Leadership. If that had not been done, we wouldn't even have had that discussion.

"I leave it there Madame Speaker because this is an honest and sincere attempt to try to deal with the consequences that we have been dealt from 9/11. The impact on our economy, the necessity to change, and with the budget that was put into place last year, we have no choice in that this was an attempt to identify what was priority. Priority not only based on what we thought, but on what the community has been telling us should be priority. Members can have their own set of priorities, but I think in this bill, I think that one thing is clear. This is a means of saving those deeper cuts that would hurt people in the State of Hawaii. And if this bill does not pass after all the time that has been spent, after all the hours that have been spent looking at different options, looking at different sources, looking at different scenarios, my fear is that all of those projects, all on those programs that are preserved through the bill will not be preserved and will disappear. And we will deal with the consequences. Thank you Madame Speaker."

Representative Marumoto rose to a point of inquiry, stating:

"The Chairman of the Finance Committee is threatening cuts in the programs enumerated in the bill before us. I ask, if this bill passes..."

Representative M. Oshiro rose to a point of order, stating:

"The usual procedure at this point in time is to ask that a question can be given to a member of this Body."

Representative Marumoto responded, stating:

"I could ask a question in a point of inquiry. You generally call for a recess however, I prefer to put the question on the record."

At 9:22 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 9:26 o'clock p.m.

Representative Marumoto rose to a point of inquiry, stating:

"Thank you Madame Speaker, I was rising on a point of inquiry and my inquiry is regarding the bill before us. The Finance Director [Chair] has said that there would be several cuts in the programs enumerated in the bill before us. If this bill fails, he very directly threatened that these programs would not be funded. So I wish to ask if this bill passes, does he assure us that these programs will be funded. That they, the House, will fight for these programs in conference committee. No use voting for it if there is no will to push these programs. It is a real bind that we are in. I don't know how I will vote on it at this time. I had wanted the Hurricane Fund preserved without it going to into the general fund, and yet there is a threat that all these programs will be cut.

"I would appreciate an answer from the Finance Chair since he very directly threaten the abolishment of all these appropriations."

At 9:28 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 9:32 o'clock p.m.

The Chair addressed the Body, stating:

"Let me remind you that this is Second Reading, and we are going to have another opportunity at this measure on Tuesday. With that said, Representative Marumoto."

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

"Madame Speaker, just very briefly. I will be voting no on this measure in view of the answer that I was given. I appreciate the answer. These items apparently will not get funded unless this bill passes in this form according to the Finance Chairman. He could clarify that amount. If in fact, the bill does pass, there is no guarantee all these items will be funded because we go into conference committee with the Senate and it may not survive in this form. So there is no guarantee, if this does pass, that all these things will be funded. So at this time I will be voting no, and I invite the Finance Chairman to clarify my remarks if they were not clear."

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

"The facts of September 11th are that we took a revenue hit in the State. It is something that is happening across the country. The revenue hit however is, I think, being misunderstood and misplayed. The revenue hit means that we went from a plus 4.1% growth in our revenue for the current fiscal year, to a minus 0.7%. That basically means that instead of gaining revenue, we are just going to stay flat at where we are. So the repeated use of the word 'cut' is kind of a misnomer because actually it's a cut from a budget based on a projected growth. But it just takes us back to where we were the previous year.

"We are not really having to cut programs from the previous year. We are just having to cut some of the growth we built into the budget last year. It is hardly the end of the world. I don't think that we should be frightened by 'take the police off the beat' scare tactics. I mean, always when we have to deal with cuts and budgets, it is always that the police are going to

be off the beat. The fire stations are going to be closed. The services that get cut are those that most directly affect people because we are supposed to be frightened into saying, 'Oh no, we can't make those cuts.'

"These don't have to be the cuts. The cuts could easily be put somewhere else and we can forget this exercise of telling people in the departments to come forward with your scariest cuts so that we can frighten the people into keeping the spending growing. We don't have to increase spending. We can live with last year's level. We can make cuts. They don't have to be these cuts.

"For example we all know that the dominant cost in the State general fund is personnel and that 55% of the budget goes for personnel. Many of those people are sitting in their offices working at computers, doing the kind of work we are very familiar with in middle class Hawaii. Those are not the front line people, and I am not going to talk about having any of those people taken out of their jobs. But when somebody's neighbor leaves, when the next door neighbor in one of those jobs leaves, that desk can be left empty for awhile. The job could be reorganized and the existing duties picked up by somebody else. This is what business does all the time. That is how business deals with cuts in the range that we are talking about. Basically going from 4.1% plus to negative 0.7%. That is an easily handled cut in the private sector. We can certainly treat it that way in government.

"I am not frightened. This is not the end of the world. I would encourage all of us to listen closely to what the people are telling us. The people are telling us the economy is the number one issue and they are telling us that the number one way to deal with the economy is to be sensitive to the need for business to grow. They are not talking about government growing. They are talking about business growing, and hiring more people. That is the objective they seek. Fifty-eight percent of the people in the People's Pulse said that the growth of business was the most important way to fix the economy, and of course the People's Pulse also told us that 70% of the population wants the HHRF left alone or returned to the people. They do not want it to be used to support bureaucrats sitting in their desks or new bureaucrats being hired to come in and replace those that leave. We have been asked to provide specific examples on cuts. One specific example is, don't fill vacant positions when they become vacant unless they are teachers or people who are urgently needed on the front line. Thank you."

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

"I've just been told not to worry. The economy is going to be flat. Don't be frightened. Let me share with you and the members here some cold, hard facts. Well what is happening, despite anything that we do here tonight, no matter what in the economy happens, or however this bill comes out of conference. Here are some of the facts that I, as your Chair of Public Safety, have had to deal with. Let me set the context. Let me set the foundation for this House, as the previous speaker has mentioned, that I have had to deal with.

"The roof is leaking, by the way. The foundation is cracking, the walls are falling apart. The number of inmates in our correctional facilities, both in-State and on the mainland, has increased by more than 7% between January 1st of this year and February 25th. The number of males has increased by 6.7%, and the number of females incarcerated has grown by 12.4%. For the record, we have 5,100 inmates incarcerated in facilities here and on the mainland.

"Madame Speaker, my comments are restricted to those items listed on pages 37 through 40 of the bill. If this bill, in some form, does not get funded, many of these programs devoted to public safety will fall by the way side. For instance, security personnel at our courts and libraries, and the perimeter of certain State hospitals especially the State Hospital in Kaneohe, will be cut dramatically. The need for public buildings to have law enforcement present has, I would argue, increased since the terrorist attack of September 11th. To remove the protection altogether would pose a definite risk to public safety.

"The measure also funds the unfortunate, but necessary costs associated with continuing to house Hawaii inmates in facilities on the mainland and at the new Federal Detention Center here at Honolulu International Airport. There is again, concern being expressed that the consent decree may have to be revisited. Without the funding in this measure, it will only make that situation more intractable, leaving the Department little choice but to exercise early release or housing inmates in security levels inappropriate for their classification. Obviously this also presents a significant risk to public safety.

"In the area of veteran services, deep cuts will be made to veteran's counseling programs if this measure does not pass. I remind my colleagues that veterans benefits are earned entitlements, not a form of welfare. This measure will ensure that we uphold the solemn commitment this State makes to our veterans.

"Let me share with you the testimony from the Director of Public Safety as he came before the Finance Committee. I made reference to the ACLU, which represented the plaintiffs in the Spear consent decree case, recently inquired about triple bunking at OCCC, knowing that such a condition violates the standard established in Spear. Triple bunking involves the housing of 3 inmates in a cell designed for 1, but which can house 2 if the inmates have access to activities and have sufficient out-of-cell time. Madame Speaker, if we don't fund the programs that are listed in this bill, we invite a lawsuit. We invite one today, no matter what we do here.

"I hope that the Finance Chair can do what he can in the conference. There is no guarantee he is going to fight like hell. I hope he does. I will be right behind him. I tell you what. The third lawsuit is looming as I speak. The ACLU is concerned about the OCCC practice of rolling lockdowns caused by shutting down of the ACO's posts in an effort to control overtime. Lockdowns are a matter of interest to the ACLU because they result in the cessation of activities for inmates and an increase in the time inmates are forced to spend in their cells. Madame Chair, I went to visit prison facilities on the Big Island last Monday."

Representative Rath rose to yield his time, and the Chair "so ordered."

Representative Garcia continued, stating:

"I went over to visit his island, actually on the other side of his island, in Hilo. If the ACLU is taking a look at OCCC and Halawa, it will go on the record. They may be listening to this tonight. They better not go to Hilo because they've got triple bunking over in the Komohana Facility, the brand new Komohana Wing at HCCC in Hilo. Triple bunking. I watched as the inmates finished their basketball game, that little time that they had outdoors. They are forced back into their cells complaining about triple bunking, I saw that in person.

"Madame Speaker we talked about the role of government, public safety, obviously, is something that we take seriously. No one here on this floor would like to see our communities

subject to inmates being released before their time. Before they had their chance to go through their programs sufficiently rehabilitated. The Director of Public Safety has no choice. If he doesn't get the money being promised in this bill, that was in his supplemental budget request, we are going to be explaining to our constituents come election time, and God help us if we have an incident happening in our back yard and we find out it was because this inmate was released before his time or her time, and had a chance to go to a rehabilitation program because we had to cut corners. That is not going to sit well with our people. It is not going to sit well with this Chairman, and should not sit well the members of this Chamber.

"I paid into this Fund. I'm due back a few hundred bucks. I would love to have it. But I am going to sacrifice that in order to take care of the problems and the concerns that I have as your Chairman, to protect our communities. Yes, I am going to be put into the frying pan for taking money away from this Fund, but better I go into the frying pan than to put my communities into the fire. The flames that are going to erupt, if public safety is compromised and this measure does not pass. So I urge the members to support this measure. Thank you very much."

The Chair addressed the Body, stating:

"Members we've had a substantial amount of discussion on this issue and it is going to come up for Third Reading on Tuesday. But at this point in time I will allow members to record their votes or submit comments."

Representative Case rose to a point of order, stating:

"Madame Speaker. I don't believe that there has been any motion to cut off debate and therefore if the Body wants to continue with debate, that is our prerogative."

At this time, Representative Souki moved to call for the previous question, seconded by Representative M. Oshiro.

Representative Moses rose and stated:

"I object Madame Speaker. This is too important an issue to cut off debate."

The Chair responded, stating:

"So at this time I will allow people to record their votes."

Representative Thielen rose in opposition to the measure and asked that the remarks of Representatives Case, Djou and Fox be entered in the Journal as her own, and the Chair "so ordered." (By reference only.)

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

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

Representative Souki rose to a point of order, stating:

"Point of order. There was a question called. Do you wish for me to take back my move to call for the question? There is a motion and we should act on the motion."

The Chair responded, stating:

"Representative Souki with your indulgence, I will allow members to record their votes and then we will take a vote on the entire Second Reading."

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

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

Representative Yoshinaga's written remarks are as follows:

"Mr. Speaker, I rise to speak in opposition of House Bill No. 2654 HD 2 that appropriates \$100,000,000 from the Hurricane Reserve Trust Fund into the general fund.

"Unfortunately, the bill, while well intentioned would leave thousands of homeowners and mortgage lenders exposed to financial ruin should another hurricane hit the State and cause billions of dollars in damages like Hurricane Iniki did in 1992.

"The purpose of the Hawaii Hurricane Relief Fund was to fill a void left by private insurance companies which immediately stopped offering hurricane coverage after Hurricane Iniki hit the islands. It prevented the collapse of the real estate industry and the home mortgage lending industry in this State. The money in the Hawaii Hurricane Relief Fund came from the premiums paid for by homeowners who had a Hawaii Hurricane Relief Fund policy and by assessing insurance companies and levying fees on the transfer of real property.

"I believe it is not consistent public policy for this legislative body to pass this measure which appropriates money from a fund on expenditures other than its intended purpose. I support the recommendations of the Board of Directors of the Hawaii Hurricane Relief Fund that the Fund's money should not be refunded nor transferred to the general fund. The Fund's money should be used as a rainy day fund for reinsurance or other natural disaster.

"For the thousands of homeowners who paid into this Fund and for the future homeowners in the State, I urge this legislative body to be prepared for any future emergency. It is the proper, fair and just course of action to maintain the integrity of the Hawaii Hurricane Relief Fund.

"Mr. Speaker, thank you for this opportunity to speak on H.B. 2654, HD 2."

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

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

Representative Meyer rose and asked that the Clerk record a no vote for her and the Chair, "so ordered." (By reference only.)

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

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

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

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

"Thank you Madame Speaker. I would like to rise in support with reservations and I request one dam minute to make a point here. Nobody will read the Journal before we go for Third vote."

The Chair responded, stating:

"Representative Moses, the Chair has made a ruling that the Chair will honor people to record their vote and that's it. At this point in time, you have recorded your vote as a yes with reservations and you may insert your comments and you can further debate on Tuesday."

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

Representative B. Oshiro's written remarks are as follows:

"Mr. Speaker, I stand in support of House Bill 2654, House Draft 2, with some serious reservations.

"House Bill 2654, House Draft 2 authorizes issuance of \$100 million in general obligation bonds ("G.O bonds") for deposit into Hurricane Reserve Trust Fund ("Hurricane Fund"), and appropriates \$100 million from the Hurricane Fund into General Fund. However, in appropriating the funds to the General Fund, it specifically identifies which programs the \$100 million will save from being cut. Plainly speaking, this bill allows the state to borrow against its credit in G.O. bonds to replace the money from the Hurricane Fund, and uses that available capital to appropriate funds for numerous state programs.

"Please note that even prior to the session, I have been consistently opposed to taking the money from the Hurricane Fund to balance the budget. I understand that we are looking at a \$300 million shortfall, however, I have always maintained that government, like everyone else – businesses, our constituents – must budget properly and live within its means.

"Yet, upon further examination of this bill, I see that pages 29 and 30 of the bill, refers to the funding for the operations of the Aiea Public Library. Thus, as I understand it, the monies taken from the Hurricane Fund are being specifically appropriated to maintain the Aiea Public Library and making sure that it stays open, even despite this fiscal crisis.

"Since this is only second reading, I shall support this bill with reservations because I want to further investigate whether the money from the Hurricane Fund is the "last and final resort" to save these programs, and most importantly, to save the Aiea Public Library. I also want to know how Aiea was determined to be one of the libraries to be cut.

"I pledge to continue exploring with the Finance Committee, and my colleagues whether this indeed is the only recourse left: such that if this bill does not pass, there would be no funding for the operations of the Aiea Public Library.

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

Representative Kawakami's written remarks are as follows:

"Mr. Speaker, I rise to speak in support of H.B. 2654 HD 2.

"As one who has experienced two hurricanes and has had to rebuild my home twice, this is a difficult decision for me. However, Mr. Speaker and colleagues, as we all know, our state is facing a severe financial shortfall, and I believe it is time we take the high road and face this reality. The bottom line is we must have a balanced budget and we have no choice in this matter. And how are we going to do this? We hear cries of 'cut this service or cut that program' but we all know that this financial shortfall is very deep and we cannot simply cut programs to make up for it.

"This measure proposes to take \$80 million from the Hurricane Reserve Trust Fund to be deposited into the general fund. We are facing a serious fiscal problem, and we must do what must be done. We need to be practical. Yes, this is the people's money, and that is exactly why we need to use it to ensure that our government can continue to serve the people of this state.

"Everyone here knows that education is and always will be one of the top priorities for this Legislature and the people of Hawaii. Without this \$100 million appropriation, our schools would suffer terribly.

"With this appropriation, we will be able to maintain some of our important educational programs. I have been an educator for many years and some of these programs have been building blocks for our children and must be maintained. The operation of six community libraries, numerous student enrichment programs including the Science and Engineering Fair, the Youth Leadership project, the Gifted and Talented Program, Learning Centers, the Hawaiian Studies Program, and the A+ After school Program must be maintained. It will help us to perform adequate repair and maintenance of our public schools. We will be able to ensure that the kindergarten through second grade student-teacher ratios do not exceed 20-1. We will be able to continue literacy programs so Hawaii's students do not fall behind. And this is only a fraction of the programs that would be affected.

"I ask you colleagues, do you really want overcrowded classrooms? Do you really want limited or no spaces for special programs and paint peeling off the walls of classrooms? Do you really want students who have difficulty reading not to get the help they need? I do not want to go home over the weekend to my district and explain why my community library may be closing. Would you?

"Our children in Hawaii should be an absolute priority. They should not get a second rate education. Yes, we have a serious budget shortfall, but the answer is not to eliminate services that are absolutely necessary for the well being of our children and people. This shortfall requires fiscal responsibility and requires us to prioritize state services. But jeopardizing the future of our children is not the answer. H.B. 2654 is part of the answer to the shortfall we must face. I urge your support of this appropriate measure."

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

Representative Ito's written remarks are as follows:

"Madame Speaker, I rise in strong support of this measure.

"I want to thank the Chair and Vice-Chair of the Finance Committee for their efforts in the difficult task of identifying cuts in the State budget to bring our spending in line with our recently-depressed revenues.

"Madame Speaker, more than 40% of the \$83 million allocated in this bill will be spent on our public education programs.

"This bill funds the Hawai'i Content and Performance Standards; statewide testing; alternative learning; preventative educational programs such as comprehensive elementary counseling and the Youth Challenge Program; the Junior Reserve Trainers Officers Training Corps; Multi-Track School funding; ESL; the Hawaiian Immersion program; literacy programs; school libraries; and many more programs.

"Without this bill, all of the programs I have just mentioned will have to be cut due to statewide revenue shortfalls. And who, Madame Speaker, will feel the effects of these cuts? The very ones which we have claimed to support— the students, the teachers, and our schools.

"Madame Speaker, I'd like to quote the Superintendent of Education. She said: "The proposed cuts will impact heavily on classroom instruction and the schools' abilities to meet the needs of all students. Student learning opportunities will be compromised at a time when we need to meet the mandates of the No Child Left Behind federal legislation. Failure of schools to meet the annual yearly progress imposed by the federal government will have even more serious implications, including possibly jeopardizing existing federal monies and progress made to date."

"Madame Speaker, we must have the will to make the most difficult political decisions and the hard choices, and I know that at this moment, the right choice, the best choice, is to reinforce our support for our schools and our students.

"Thank you, Madame Speaker."

The motion to call for the previous question was put to vote by the Chair and carried.

Representative Whalen rose to a point of order, stating:

"I hate to be technical but that way, it's clear for the record. I believe the motion we just voted on was to call for the question. We still need to pass these other bills on Second Reading. I did not hear the Representative from Kahului withdraw the motion, so that was still the one on the floor to vote on."

At this time, Representative Souki withdrew his motion to call for the previous question, followed by Representative M. Oshiro who withdrew his second.

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2654, HD 2, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Ahu Isa, Auwae, Bukoski, Case, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Ontai, Rath, Takai, Thielen, Whalen and Yoshinaga voting no, and with Representatives Davis, Pendleton and Stonebraker being excused.

THIRD READING

H.B. No. 1941:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 1941, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Third Reading by a vote of 48 ayes, with

Representatives Davis, Pendleton and Stonebraker being excused.

H.B. No. 2009, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2009, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Third Reading by a vote of 48 ayes, with Representatives Davis, Pendleton and Stonebraker being excused.

H.B. No. 2854, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2854, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ACCOUNTANCY," passed Third Reading by a vote of 48 ayes, with Representatives Davis, Pendleton and Stonebraker being excused.

H.B. No. 2305, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2305, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM PROBATE CODE," passed Third Reading by a vote of 48 ayes, with Representatives Davis, Pendleton and Stonebraker being excused.

At 9:51 o'clock p.m., Representative M. Oshiro requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 9:51 o'clock p.m.

H.B. No. 2304, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2304, HD 1, entitled: "A BILL FOR AN ACT RELATING TO JUROR PRIVACY," passed Third Reading by a vote of 48 ayes, with Representatives Davis, Pendleton and Stonebraker being excused.

H.B. No. 2428, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2428, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGE VERIFICATION OF SEXUAL PERFORMERS," passed Third Reading by a vote of 48 ayes, with Representatives Davis, Pendleton and Stonebraker being excused.

H.B. No. 2433, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2433, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD SUPPORT ENFORCEMENT," passed Third Reading by a vote of 48 ayes, with Representatives Davis, Pendleton and Stonebraker being excused.

H.B. No. 2438, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2438, HD 1, entitled: "A BILL FOR AN ACT RELATING TO IDENTITY," passed Third Reading by a vote of 48 ayes, with Representatives Davis, Pendleton and Stonebraker being excused.

H.B. No. 2459:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2459, entitled: "A BILL FOR AN ACT MAKING EMERGENCY APPROPRIATION FOR SOCIAL SECURITY/MEDICARE EXPENSES," passed Third Reading by a vote of 48 ayes, with Representatives Davis, Pendleton and Stonebraker being excused.

H.B. No. 2501, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2501, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE APPROPRIATION FOR STATE EMPLOYEE BENEFIT PROGRAMS," passed Third Reading by a vote of 48 ayes, with Representatives Davis, Pendleton and Stonebraker being excused.

H.B. No. 2568, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2568, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE COLLECTION OF TAXES," passed Third Reading by a vote of 48 ayes, with Representatives Davis, Pendleton and Stonebraker being excused.

H.B. No. 2569, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2569, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CONFORMITY OF THE STATE TAX LAWS TO THE UNITED STATES CONSTITUTION," passed Third Reading by a vote of 48 ayes, with Representatives Davis, Pendleton and Stonebraker being excused.

H.B. No. 2352, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2352, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 48 ayes, with Representatives Davis, Pendleton and Stonebraker being excused.

H.B. No. 2514:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2514, entitled: "A BILL FOR AN ACT RELATING TO TATTOO ARTISTS," passed Third Reading by a vote of 48 ayes, with Representatives Davis, Pendleton and Stonebraker being excused.

H.B. No. 2448:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2448, entitled: "A BILL FOR AN ACT RELATING TO THE HIGH TECHNOLOGY DEVELOPMENT CORPORATION," passed Third Reading by a vote of 48 ayes, with Representatives Davis, Pendleton and Stonebraker being excused.

H.B. No. 2556:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 2556, entitled: "A BILL FOR AN ACT RELATING TO SECTION 13 OF ACT

15, THIRD SPECIAL SESSION LAWS OF HAWAII 2001," passed Third Reading by a vote of 48 ayes, with Representatives Davis, Pendleton and Stonebraker being excused.

H.B. No. 1093:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 1093, entitled: "A BILL FOR AN ACT RELATING TO THE USE OF WASHINGTON PLACE FOR CAMPAIGN ACTIVITIES," passed Third Reading by a vote of 48 ayes, with Representatives Davis, Pendleton and Stonebraker being excused.

H.B. No. 1999:

Representative M. Oshiro moved that H.B. No. 1999, pass Third Reading, seconded by Representative Lee.

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

"Thank you Madame Speaker. I am sorry to break the momentum. I rise in opposition to H.B. 1999. First of all I'd like to disclose that I have brother who is a DOCARE officer. Growing up on Lanai, my father was a Fish and Game Warden. My family, at times, depended on hunting and fishing for subsistence, so I am no stranger to hunting and guns. I do not have an aversion to guns, but I do have an aversion to the misuse of guns.

"Pistols and revolvers are close range weapons requiring training and the users to be qualified. Unfortunately hunter education classes do not provide for the training and certification of users. Pistols and revolvers can be used in specialized hunting situations but unfortunately many hunters cannot make the distinction on when it is appropriate. As close range firearms, it does not have the killing power to humanely kill game in most hunting situations. But 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, and more than likely, working alone and in many isolated areas dealing with individuals with firearms. Nationally, this branch of enforcement is the most assaulted group. We should not subject them to additional unnecessary danger. Passage of this bill puts enforcement officers in harms way. I wish my colleagues were as passionate in keeping these enforcement officers as safe as possible as they are in banning traffic cameras. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 1999, entitled: "A BILL FOR AN ACT RELATING TO HUNTING," passed Third Reading by a vote of 46 ayes to 2 noes, with Representatives Morita and Thielen voting no, and with Representatives Davis, Pendleton and Stonebraker being excused.

The Chair directed the Clerk to note that H. B. Nos. 1941; 2009, HD 1; 2854, HD 1; 2305, HD 1; 2304, HD 1; 2428, HD 1; 2433, HD 1; 2438, HD 1; 2459; 2501, HD 1; 2568, HD 1; 2569, HD 1; 2352, HD 1; 2514; 2448; 2556; 1093 and 1999 passed Third Reading at 9:55 o'clock p.m.

INTRODUCTION OF RESOLUTIONS

By unanimous consent, the following resolutions (H.R. Nos. 25 through 27) and concurrent resolutions (H.C.R. Nos. 43

through 48) were referred to Printing and further action was deferred:

H.R. No. 25, entitled: "HOUSE RESOLUTION URGING THE DEPARTMENT OF EDUCATION TO ENCOURAGE THE DEVELOPMENT AND USE OF FOOD GARDENS AS A TEACHING TOOL IN ELEMENTARY SCHOOLS," was jointly offered by Representatives Arakaki, Hale, Ito, Lee, Morita, Kanoho, Case, Chang, Suzuki, Kahikina, Abinsay, Cabrerros, Garcia, Espero, Kawakami, Ahu Isa, Magaoay, Takai and Schatz.

H.R. No. 26, entitled: "HOUSE RESOLUTION ADOPTING A SCHOOL READINESS DEFINITION AND STRATEGY," was jointly offered by Representatives Arakaki, Lee, Abinsay, Takai, Kawakami, Ito, Kahikina, Ahu Isa, Morita, Magaoay and Auwae.

H.R. No. 27, entitled: "HOUSE RESOLUTION URGING THE DEPARTMENT OF TRANSPORTATION TO ESTABLISH AN INTERGOVERNMENTAL-COMMUNITY TASK FORCE TO PLAN FOR THE DEVELOPMENT OF AN ALTERNATIVE ACCESS ROAD TO KAILUA HIGH SCHOOL IN KAILUA, O'AHU," was jointly offered by Representatives Pendleton, Thielen, Gomes, Meyer, Djou and Ito.

H.C.R. No. 43, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF BUDGET AND FINANCE TO ENTER INTO A FINANCING AGREEMENT FOR A NEW ELEMENTARY SCHOOL IN KAHULUI, MAUI," was jointly offered by Representatives Nakasone and Say.

H.C.R. No. 44, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE DEPARTMENT OF EDUCATION TO ENCOURAGE THE DEVELOPMENT AND USE OF FOOD GARDENS AS A TEACHING TOOL IN ELEMENTARY SCHOOLS," was jointly offered by Representatives Arakaki, Hale, Chang, Lee, Morita, Case, Ito, Suzuki, Abinsay, Kahikina, Kanoho, Cabrerros, Schatz, Espero, Garcia, Ahu Isa, Magaoay and Takai.

H.C.R. No. 45, entitled: "HOUSE CONCURRENT RESOLUTION ADOPTING A SCHOOL READINESS DEFINITION AND STRATEGY," was jointly offered by Representatives Arakaki, Lee, Abinsay, Takai, Kawakami, Ito, Kahikina, Ahu Isa, Morita, Magaoay and Auwae.

H.C.R. No. 46, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE DEPARTMENT OF TRANSPORTATION TO ESTABLISH AN INTERGOVERNMENTAL-COMMUNITY TASK FORCE TO PLAN FOR THE DEVELOPMENT OF AN ALTERNATIVE ACCESS ROAD TO KAILUA HIGH SCHOOL IN KAILUA, O'AHU," was jointly offered by Representatives Pendleton, Thielen, Gomes, Meyer, Djou and Ito.

H.C.R. No. 47, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE BOARD OF LAND AND NATURAL RESOURCES TO LEASE SUBMERGED AND TIDAL LANDS OF THE HONOKOHU SMALL BOAT HARBOR TO PRIVATE ENTITIES FOR COMMERCIAL, RECREATIONAL, EDUCATIONAL, AND RESEARCH PURPOSES," was jointly offered by Representatives Whalen, Kanoho, Chang, Rath and Hamakawa.

H.C.R. No. 48, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE GOVERNOR AND THE PRESIDENT OF THE UNIVERSITY OF HAWAII TO ESTABLISH SISTER-STATE EDUCATIONAL, CULTURAL AND ECONOMIC EXCHANGES BETWEEN THE STATE OF HAWAII AND THE PROVINCE OF ILOCOS SUR OF THE REPUBLIC OF THE PHILIPPINES," was jointly offered by Representatives Arakaki, Abinsay, Cabrerros, McDermott, Case, Espero, Magaoay, M. Oshiro, Ahu Isa, Garcia, Ito and Schatz.

ANNOUNCEMENTS

Representative Lee announced that there would be a Majority Caucus at 10:00 am on Monday morning.

Representative Gomes: "Madame Speaker with your indulgence, I wanted to invite the members this weekend to the Waimanalo Parade which is occurring tonight as we speak, and the carnival this weekend. The reason I mention it is because it is produced and put on, and has been for several years, by the Friends of Waimanalo which is sort of the heart and soul of Waimanalo. The reason they do this and have been doing this is to raise funds for scholarships for education, and it has been a very good cause. They have been very good and effective at getting scholarships out to folks in the community. So please come down. Bring your family and friends to Waimanalo, spend some money, have a good time, and support scholarships for education. Thank you."

Representative Thielen: "And on your way tomorrow morning, if you would stop at the Aikahi School Fun Fair and bring your children. The fair runs from 10:00 to 3:00. They have pony rides, and all sorts of fun things. Come and buy scripts and help support the school. Aikahi School is in Kailua right near Mokapu Boulevard and Kalaheo. People can get directions from me, but don't call before 8:00 a.m."

At this time, Representative Lee moved to keep the Journal open until 12:00 midnight this legislative day for the purpose of receiving Standing Committee Reports and bills transmitted thereby for Third Reading, seconded by Representative Djou and carried. (Representatives Davis, Pendleton and Stonebraker were excused.)

At 9:57 o'clock p.m. on motion by Representative Lee, seconded by Representative Djou and carried, the House of Representatives stood in recess until 9:00 o'clock a.m., Tuesday, March 5, 2002. (Representatives Davis, Pendleton and Stonebraker were excused.)

STANDING COMMITTEE REPORTS

In accordance with the motion made, the following Standing Committee Reports (Stand. Com. Rep. Nos. 634-02 through 704-02) were received by the Clerk prior to 12:00 midnight this legislative day, and the following actions were taken:

Stand. Com. Rep. No. 634-02 (FIN) and H.B. No. 1810, 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 March 5, 2002.

Stand. Com. Rep. No. 635-02 (FIN) and H.B. No. 2033, HD 2, as amended in HD 3, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 636-02 (FIN) and H.B. No. 2037, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION REFORM," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 637-02 (FIN) and H.B. No. 2851, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TEACHER STANDARDS BOARD," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 638-02 (FIN) and H.B. No. 2751, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF EDUCATION," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 639-02 (FIN) and H.B. No. 2353, 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 March 5, 2002.

Stand. Com. Rep. No. 640-02 (FIN) and H.B. No. 2172, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 641-02 (FIN) and H.B. No. 2223, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELDERLY CARE," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 642-02 (FIN) and H.B. No. 2228, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO PENSION AND RETIREMENT SYSTEMS," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 643-02 (FIN) and H.B. No. 2234, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE FIFTIETH ANNIVERSARY COMMEMORATION OF THE KOREAN WAR COMMISSION," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 644-02 (FIN) and H.B. No. 2242, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO HYDROELECTRICITY," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 645-02 (FIN) and H.B. No. 2276, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 646-02 (FIN) and H.B. No. 2325, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO ACCEPTANCE OF PROPERTY BY COUNTIES," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 647-02 (FIN) and H.B. No. 2630, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO A SEAL OF QUALITY FOR FRESH AND PROCESSED AGRICULTURAL PRODUCTS PROGRAM," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 648-02 (FIN) and H.B. No. 2803, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTION PICTURE AND FILM

PRODUCTION," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 649-02 (FIN) and H.B. No. 1751, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR THE SEX OFFENDER TREATMENT PROGRAM," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 650-02 (FIN) and H.B. No. 1821, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE LEGISLATIVE AUDITOR," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 651-02 (FIN) and H.B. No. 1939, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR AGRICULTURAL WATER DEVELOPMENT," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 652-02 (FIN) and H.B. No. 2017, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 653-02 (FIN) and H.B. No. 2072, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO SOCIAL WELFARE," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 654-02 (FIN) and H.B. No. 1974, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL REPAIR AND MAINTENANCE," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 655-02 (FIN) and H.B. No. 1858, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO BEFORE-SCHOOL, AFTER-SCHOOL, AND WEEKEND PROGRAMS," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 656-02 (FIN) and H.B. No. 1878, 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 March 5, 2002.

Stand. Com. Rep. No. 657-02 (FIN) and H.B. No. 1730, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO DRIVERS EDUCATION FUND UNDERWRITERS FEE," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 658-02 (FIN) and H.B. No. 2450, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 659-02 (FIN) and H.B. No. 2452, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRIC VEHICLES," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 660-02 (FIN) and H.B. No. 2465, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 661-02 (FIN) and H.B. No. 2466, as amended in HD 1, entitled: "A BILL FOR AN ACT

RELATING TO REAL ESTATE," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 662-02 (FIN) and H.B. No. 2574, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO AN EXTENSION OF THE RESIDENTIAL CONSTRUCTION AND REMODELING INCOME TAX CREDIT," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 663-02 (FIN) and H.B. No. 2787, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF EDUCATION STOREROOM REVOLVING FUND," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 664-02 (FIN) and H.B. No. 2480, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL BUS FARES," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 665-02 (FIN) and H.B. No. 1816, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO COASTAL ZONE MANAGEMENT," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 666-02 (FIN) and H.B. No. 2165, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 667-02 (FIN) and H.B. No. 2559, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE REPEAL OF NULL AND VOID AND UNNECESSARY ADMINISTRATIVE RULES," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 668-02 (FIN) and H.B. No. 2493, as amended in 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 March 5, 2002.

Stand. Com. Rep. No. 669-02 (FIN) and H.B. No. 2479, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO DISASTER RELIEF," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 670-02 (FIN) and H.B. No. 2507, HD 2, as amended in HD 3, entitled: "A BILL FOR AN ACT RELATING TO REGISTRATION OF DIVORCES AND ANNULMENTS," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 671-02 (FIN) and H.B. No. 2506, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO VITAL STATISTICS," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 672-02 (FIN) and H.B. No. 2503, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO VITAL STATISTICS," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 673-02 (FIN) and H.B. No. 2542, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO BOATING," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 674-02 (FIN) and H.B. No. 2424, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR CLAIMS AGAINST

THE STATE, ITS OFFICERS, OR ITS EMPLOYEES," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 675-02 (FIN) and H.B. No. 2576, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO HIGH TECHNOLOGY TAX INCENTIVES," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 676-02 (FIN) and H.B. No. 2838, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO GEOTHERMAL ROYALTIES," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 677-02 (FIN) and H.B. No. 2836, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO ENERGY," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 678-02 (FIN) and H.B. No. 2831, HD 2, as amended in HD 3, entitled: "A BILL FOR AN ACT RELATING TO CORAL REEF PROTECTION," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 679-02 (FIN) and H.B. No. 2849, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAREER AND TECHNICAL EDUCATION," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 680-02 (CPC) and H.B. No. 2055, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO SOCIAL WORK," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 681-02 (CPC) and H.B. No. 2056, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO SOCIAL WORK," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 682-02 (CPC) and H.B. No. 2065, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO NURSES," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 683-02 (CPC) and H.B. No. 2258, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO MARRIAGE AND FAMILY THERAPY," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 684-02 (CPC) and H.B. No. 2169, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO COFFEE," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 685-02 (CPC) and H.B. No. 2845, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO DENTAL LICENSING," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 686-02 (CPC) and H.B. No. 2806, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY CONTRACEPTION," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 687-02 (CPC/JHA) and H.B. No. 2642, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HOME LOAN PROTECTION ACT," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 688-02 (JHA) and H.B. No. 2580, entitled: "A BILL FOR AN ACT RELATING TO DRIVER LICENSING," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 689-02 (JHA) and H.B. No. 1741, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUPIL TRANSPORTATION SAFETY," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 690-02 (JHA) and H.B. No. 1749, 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 March 5, 2002.

Stand. Com. Rep. No. 691-02 (JHA) and H.B. No. 1901, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO HIV TESTING FOR SEXUAL OFFENSES," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 692-02 (JHA) and H.B. No. 2084, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE TRAFFIC CODE," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 693-02 (JHA) and H.B. No. 2158, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO COMMERCIAL DRIVER LICENSING," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 694-02 (JHA) and H.B. No. 2443, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE PREVENTION OF THE FILING OF FRIVOLOUS FINANCING STATEMENTS," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 695-02 (JHA) and H.B. No. 2550, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO APPURTENANT RIGHTS UNDER THE WATER CODE," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 696-02 (JHA) and H.B. No. 2560, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO SEXUAL OFFENSES," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 697-02 (JHA) and H.B. No. 2841, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTED OFFICIALS," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 698-02 (JHA) and H.B. No. 2349, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO AUTHORIZED EMERGENCY VEHICLES," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 699-02 (JHA) and H.B. No. 2301, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE USE OF INTOXICANTS," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 700-02 (JHA) and H.B. No. 2266, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT

RELATING TO ACCRETED LANDS," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 701-02 (JHA) and H.B. No. 2496, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD CARE," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 702-02 (JHA) and H.B. No. 2672, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO FUNDRAISING ACTIVITIES," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 703-02 (JHA) and H.B. No. 1451, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE PREVENTION OF WORKPLACE VIOLENCE," were placed on the calendar for Third Reading on March 5, 2002.

Stand. Com. Rep. No. 704-02 (JHA) and H.B. No. 57, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," were placed on the calendar for Third Reading on March 5, 2002.

HOUSE COMMUNICATION

House Communication dated March 1, 2002, from Patricia Mau-Shimizu, Chief Clerk of the House to The Honorable Benjamin J. Cayetano, Governor of the State of Hawaii, that in accordance with the provisions of Article XVII, Section 3 of the Hawaii State Constitution, written notice is hereby given of the final form of H.B. No. 1012, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE III, SECTION 6, OF THE HAWAII CONSTITUTION, TO CHANGE THE ELIGIBILITY TO SERVE AS A MEMBER OF THE SENATE OR HOUSE OF REPRESENTATIVES," and that said measure passed Third Reading in the House of Representatives on this date.

ADJOURNMENT

At 12:00 o'clock midnight, the House of Representatives adjourned until 9:00 o'clock a.m., Tuesday, March 5, 2002.