

EIGHTEENTH DAY

Wednesday, February 18, 2004

The House of Representatives of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004, convened at 12:05 o'clock p.m., with the Vice Speaker presiding.

The invocation was delivered by Chaplain Alan M. Urasaki, after which the Roll was called showing all members present with the exception of Representatives Arakaki, Finnegan, Hale, Hiraki, Kahikina, Kanoho, Kawakami, Nishimoto, M. Oshiro, Pendleton, Shimabukuro, Stonebraker and Thielen who were excused.

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

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 10 through 15) were received and announced by the Clerk:

Sen. Com. No. 10, transmitting S.B. No. 1000, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD ABUSE," which passed Third Reading in the Senate on February 17, 2004.

Sen. Com. No. 11, transmitting S.B. No. 2003, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PASSENGER RESTRAINT DEVICES," which passed Third Reading in the Senate on February 17, 2004.

Sen. Com. No. 12, transmitting S.B. No. 2015, entitled: "A BILL FOR AN ACT RELATING TO ABANDONED VEHICLES," which passed Third Reading in the Senate on February 17, 2004.

Sen. Com. No. 13, transmitting S.B. No. 2021, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STREET ROD VEHICLES," which passed Third Reading in the Senate on February 17, 2004.

Sen. Com. No. 14, transmitting S.B. No. 2022, entitled: "A BILL FOR AN ACT RELATING TO DUNE BUGGIES," which passed Third Reading in the Senate on February 17, 2004.

Sen. Com. No. 15, transmitting S.B. No. 2344, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," which passed Third Reading in the Senate on February 17, 2004.

On motion by Representative Lee, seconded by Representative Meyer and carried, the following bills passed First Reading by title and further action was deferred. (Representatives Hale, Kahikina, Kanoho, M. Oshiro, Pendleton and Shimabukuro were excused.)

S.B. No. 1000, SD 1
S.B. No. 2003, SD 1
S.B. No. 2015
S.B. No. 2021, SD 1
S.B. No. 2022
S.B. No. 2344, SD 1

INTRODUCTIONS

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

Representative Ito introduced the men and women of the 15th Airlift Wing and tenant organizations stationed at Hickam Air Force Base; acting Commander, Chief Master Sergeant Dennis Palmer; and Public Affairs Officer, Bette Kalohi.

Representative Wakai introduced his cousin, Mr. Everett Wakai with the U.S. Embassy in Paris; and his uncle, Mr. Ted Wakai of Oxnard, California.

ORDER OF THE DAY

COMMITTEE REASSIGNMENTS

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

H.B.
Nos.Re-referred to:

558, Committee on Health, then to the Committee on
HD 1 Finance

559, Committee on Health, then to the Committee on
HD 1 Energy and Environmental Protection

891, Committee on Higher Education, then to the
HD 1 Committee on Finance

INTRODUCTION OF RESOLUTION
(FLOOR PRESENTATION)

The following resolution (H.R. No. 23) was announced by the Clerk and the following action taken:

H.R. No. 23, entitled: "HOUSE RESOLUTION CONGRATULATING THE KAHUKU HIGH SCHOOL VARSITY FOOTBALL TEAM FOR WINNING THE 2003 STATE FOOTBALL CHAMPIONSHIP," was jointly offered by Representatives Magaoay, Karamatsu, B. Oshiro, Shimabukuro, Wakai, Caldwell, Sonson, Ito, Nishimoto, Mindo, Meyer, Blundell, Tamayo, Evans, Morita, Finnegan, Souki, Waters, Kanoho, Kawakami, Takamine, Kaho'ohalahala, Abinsay and Takumi.

Representative Magaoay, moved that H.R. No. 23 be adopted, seconded by Representative Meyer.

Representative Magaoay introduced the following honorees who were seated on the floor of the House:

Mr. Siuaki Livai, Head Coach
Mr. Joe Whitford, Athletic Director
Mr. Paea Vaimoui, Team Member
Mr. Walker Vave, Team Member

Representative Magaoay also introduced the Kahuku High School Varsity Football Team and their coaching staff who were seated in the gallery.

The motion was put to vote by the Chair and carried, and H.R. No. 23 was adopted with Representatives Hamakawa, Ito, Nakasone, M. Oshiro and Pendleton being excused.

At 12:18 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:36 o'clock p.m.

STANDING COMMITTEE REPORTS

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 203-04) recommending that H.B. No. 1848, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1848, entitled: "A BILL FOR AN ACT RELATING TO EXCEPTIONAL TREES," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 204-04) recommending that H.B. No. 2474, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2474, entitled: "A BILL FOR AN ACT RELATING TO THE VOLUNTARY RESPONSE PROGRAM," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 205-04) recommending that H.B. No. 2013, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2013, entitled: "A BILL FOR AN ACT RELATING TO POLYBROMINATED DIPHENYL ETHERS," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce, with Representative Pendleton being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 206-04) recommending that H.B. No. 2049, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2049, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce, with Representative Pendleton being excused.

Representatives Morita and Chang, for the Committee on Energy and Environmental Protection and the Committee on Tourism and Culture presented a report (Stand. Com. Rep. No. 207-04) recommending that H.B. No. 2074, as amended in HD 1, be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2074, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PENALTIES OF HEALTH, ENVIRONMENTAL, AND CULTURAL PRESERVATION

LAWS," was referred to the Committee on Judiciary, with Representative Pendleton being excused.

Representative Ito, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 208-04) recommending that H.B. No. 2206, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2206, entitled: "A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES," passed Second Reading and was referred to the Committee on Judiciary, with Representative Pendleton being excused.

Representative Ito, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 209-04) recommending that H.B. No. 2397, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2397, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR THE HAWAII STATE DISASTER REVOLVING LOAN FUND," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Ito, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 210-04) recommending that H.B. No. 2662, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2662, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC DEVELOPMENT," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Ito, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 211-04) recommending that H.B. No. 2661, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2661, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC DEVELOPMENT," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 212-04) recommending that H.B. No. 2985, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2985, HD 1, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Lee.

Representative Meyer rose and asked that the Clerk record a no vote for all Minority Members present, 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. 2985, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE

LAND USE COMMISSION," passed Second Reading and was referred to the Committee on Judiciary with Representatives Blundell, Bukoski, Ching, Finnegan, Fox, Halford, Jernigan, Leong, Marumoto, Meyer, Moses, Ontai, Stonebraker and Thielen voting no, and with Representative Pendleton being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 213-04) recommending that H.B. No. 1867, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1867, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Takai, for the Committee on Higher Education presented a report (Stand. Com. Rep. No. 214-04) recommending that H.B. No. 2546, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2546, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENTS PERTAINING TO HIGHER EDUCATION," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Schatz, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 215-04) recommending that H.B. No. 1732, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1732, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXES," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Schatz, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 216-04) recommending that H.B. No. 1733, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1733, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXES," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Schatz, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 217-04) recommending that H.B. No. 2191, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2191, entitled: "A BILL FOR AN ACT RELATING TO ENTERPRISE ZONES," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Schatz, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 218-04) recommending that H.B. No. 2220, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2220, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYEE STOCK OWNERSHIP PLANS," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Schatz, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 219-04) recommending that H.B. No. 2392, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2392, entitled: "A BILL FOR AN ACT RELATING TO THE CAPITAL LOAN PROGRAM," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representatives Arakaki and Takumi, for the Committee on Health and the Committee on Education presented a report (Stand. Com. Rep. No. 220-04) recommending that H.B. No. 1894, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1894, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STUDENT HEALTH," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Chang, for the Committee on Tourism and Culture presented a report (Stand. Com. Rep. No. 221-04) recommending that H.B. No. 2186, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2186, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

Representative Tamayo's written remarks are as follows:

"I rise in strong support. HB 2186 recognizes the historical celebration of our Filipino community's 100th birthday in Hawaii. Our Filipino-American community has made many significant contributions to Hawaii's development, while preserving and highlighting their culture and heritage. This 100th anniversary is not only an event being celebrated by our Filipino residents, but one that will be showcased in Filipino communities around the world. I encourage all of our House members to support our Filipino community in this historical event."

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

Representative Mindo's written remarks are as follows:

"Mr. Speaker, I would like to rise in support of both HSCR221, and HB2186, H.D.1.

"The purpose of this bill is to establish a fifteen-member temporary commission, known as the Filipino Centennial Commission, to plan for the commemoration of the one-hundredth anniversary of the arrival of the first Filipinos in Hawaii.

"The bill seeks to gain an appropriation of \$1,000,000 or so out of the general revenues for Fiscal Year 2004-2005, to be matched by the Filipino Centennial Commission on a one-to-one basis. The actual celebration will take place in 2006.

"Thank you very much for allowing me the opportunity to speak on behalf of this legislation."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2186, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE FILIPINO CENTENNIAL CELEBRATION COMMISSION," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representatives Chang and Hamakawa, for the Committee on Tourism and Culture and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 222-04) recommending that H.B. No. 2608, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2608 pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Meyer rose and asked that the Clerk record a no vote for all Minority Members present, and the Chair "so ordered."

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

"Madame Speaker, I will rise in opposition. Regarding this measure, I would just simply repeat the preface of the Attorney General, who when he came up to testify before the Tourism and Culture Committee said, 'About the merits of this bill of which it has none.'

"I think we should consider this bill carefully. Reconsider this bill carefully. 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. 2608, 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 Blundell, Bukoski, Ching, Finnegan, Fox, Halford, Jernigan, Leong, Marumoto, Meyer, Moses, Ontai, Stonebraker and Thielen voting no, and with Representative Pendleton being excused.

Representatives Ito and M. Oshiro, for the Committee on Public Safety and Military Affairs and the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 223-04) recommending that H.B. No. 2500, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2500, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII PAROLING

AUTHORITY," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 224-04) recommending that H.B. No. 2434, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2434, entitled: "A BILL FOR AN ACT RELATING TO APPLICATIONS SEEKING GENERAL RATE INCREASES FILED BY PUBLIC UTILITIES HAVING ANNUAL GROSS REVENUES OF LESS THAN \$2,000,000," was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 225-04) recommending that H.B. No. 1717, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1717, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Meyer 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 Meyer's written remarks are as follows:

"I rise in support of HB 1717, with reservations. While treatment by naturopathic practitioners is sought after by some, to date it is not unanimously accepted by either the scientific or the lay community. In any case, the knowledge base of naturopathic doctors is not comparable to that of medical doctors, whose services and prescriptive services are already covered under mandated personal injury protection benefits. This bill equates the two and opens the door to the possibility that other alternative medicine practitioners may demand to be included in this same category of eligible providers. With passage of this bill, motor vehicle insurance premiums may rise. The extent of that rise is not predictable. The effect of this legislation may be to seriously increase costs for all consumers, with benefits for the few. Thank you, Mr. Speaker.

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

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

"May I please stand in strong support of this bill? Thank you very much, Madame Speaker. This bill is very limited in its nature. What it does is actually just put naturopaths, these doctors, on the same level as chiropractors and acupuncturists under our Section 431 of the Insurance Code.

"What it is, is if a person gets into a car accident, they are entitled to a certain amount of insurance. The minimum is \$10,000. All this says is that you can use some of your medical benefits to obtain medical treatments from either a chiropractor, a medical doctor, or an acupuncturist. In fact, it doesn't go far enough.

"You know, let me differentiate what is an acupuncturist and a chiropractor, because they are putting them at the same level. The medical doctors go to 4 years of med school. The naturopaths go to 4 years of med school except in a different way. The first 2 years is a traditional med school type of training in diagnosis of diseases, etcetera. But the second 2 years in med school is devoted to nontraditional. Instead of using treatments and methodology like the regular MDs that we are familiar with who use drugs and medicines, they use nontraditional means of treatment. Such as things that grow in your backyard that's been processed into a pill form. Those kinds of remedies. But the training is basically qualifies them to be a doctor. And they are licensed as doctors in the State of Hawaii.

"What this is doing, it just says, 'Hey, we are doctors. Why don't you have us participate in the motor vehicle insurance benefits?' And you know this bill gives them a very limited access to this PIP. Why not give our consumers the ability to choose what kind of treatments they want? Who says that only a medical, Western medicine training is good for the people?"

"You know, we living in Hawaii where there's a lot of people coming from a lot of countries where nontraditional medicine is acceptable and in fact, even better. So let's give these consumers, let's give the people of the State of Hawaii a chance, an opportunity to decide what doctor they want. If they want drugs, drugs, drugs, drugs from a doctor, or perhaps a nontraditional medication from a naturopath where they can actually go to their backyard and maybe select certain kinds of herbs and the bottled form of herbs, all kinds of medication that's available out there and give it to their patients. Thank you very much."

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

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

"In opposition. I'm just concerned that this might drive up the cost of automobile insurance in the State that already has some of the highest cost in the nation."

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 MOTOR VEHICLE INSURANCE," passed Second Reading and was referred to the Committee on Finance with Representative Jernigan voting no, and with Representative Pendleton being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 226-04) recommending that H.B. No. 1808, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1808, HD 1, entitled: "A BILL FOR AN ACT RELATING TO UNCLAIMED PROPERTY," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 227-04) recommending that H.B. No. 2137, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2137, HD 1, entitled: "A BILL FOR AN ACT RELATING TO A ONE CALL CENTER," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Takumi, for the Committee on Education presented a report (Stand. Com. Rep. No. 228-04) recommending that H.B. No. 2645, as amended in HD 1, pass Second Reading and be referred to the Committee on Labor and Public Employment.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2645, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Labor and Public Employment, with Representative Pendleton being excused.

Representative Takumi, for the Committee on Education presented a report (Stand. Com. Rep. No. 229-04) recommending that H.B. No. 1739, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1739, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF EDUCATION," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Takumi, for the Committee on Education presented a report (Stand. Com. Rep. No. 230-04) recommending that H.B. No. 1875, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1875, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR TEXTBOOKS FOR PUBLIC SCHOOLS," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Takumi, for the Committee on Education presented a report (Stand. Com. Rep. No. 231-04) recommending that H.B. No. 1880, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1880, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR FULL-TIME STUDENT ACTIVITIES COORDINATORS," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Takumi, for the Committee on Education presented a report (Stand. Com. Rep. No. 232-04) recommending that H.B. No. 1917, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1917, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR FAMILIES FOR RESOURCES FOR EARLY ACCESS TO LEARNING," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Takumi, for the Committee on Education presented a report (Stand. Com. Rep. No. 233-04) recommending that H.B. No. 1928, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1928, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE HAWAII TEACHER STANDARDS BOARD," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Takumi, for the Committee on Education presented a report (Stand. Com. Rep. No. 234-04) recommending that H.B. No. 1948, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1948, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMUNITY LIBRARIES," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Takumi, for the Committee on Education presented a report (Stand. Com. Rep. No. 235-04) recommending that H.B. No. 2815, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2815, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Takumi, for the Committee on Education presented a report (Stand. Com. Rep. No. 236-04) recommending that H.B. No. 1898, pass Second Reading and be referred to the Committee on Legislative Management.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1898, entitled: "A BILL FOR AN ACT RELATING TO FINANCIAL LITERACY FOR YOUTH MONTH," passed Second Reading and was referred to the Committee on Legislative Management, with Representative Pendleton being excused.

Representative Takumi, for the Committee on Education presented a report (Stand. Com. Rep. No. 237-04) recommending that H.B. No. 1892, pass Second Reading and be referred to the Committee on Judiciary.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1892 pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Lee.

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

"Thank you, Madame Speaker. I'm rising with some strong reservations on Stand. Com. Report Number 237-04, House Bill 1892. I noticed in the Committee Report that ... the Department of Education opposed this.

"The purpose of this bill is to prohibit exclusion from athletics and any educational or recreational program or activity based on sexual orientation. My concern with this is, about 2 years ago there was a case, and this is not having to do with public school students, but it was with paddlers where a man who had a sex change operation wanted to paddle on a women's outrigger canoe team. And ultimately, he was not allowed to. I can see this as part of the problem here.

"You could have a student who cross-dressed and was a male who would want to play in girls' sports teams. And with the nature, skeletal and muscular and everything, is not equal for the most part. And I think this would create a real problem in our public schools. Thank you, Madame Speaker."

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

"I vote no on this bill. You know, we can do this at the school level. I don't think this is necessary to give special recognition and privileges to any particular group, whether it be homosexuals or straights. And this should be done at the school level. And I believe it already is. So it's unnecessary. Thank you."

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

"Thank you, Madame Speaker. I would like a point of information please. The Committee Report indicates that the Department of Education was in support of this bill. I was not at the hearing. Can anybody tell me if DOE was in support or not."

At 12:46 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at o'clock 12:50 p.m.

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

"Thank you, Madame Speaker. I'm still not sure of the answer. I'm getting mixed answers, whether or not DOE was in support of this measure. So I'm still asking was DOE in support of this measure?"

The Chair addressed Representative Moses, stating:

"Representative Moses, for what purpose do you rise other than for your clarification?"

Representative Moses: "Because it could help make up my mind whether I'm for the measure or against the measure."

Representative Schatz rose to a point of order, stating:

"Madame Speaker, point of order. The current speaker is out of order."

Vice Speaker Luke: "Thank you, Representative Schatz. Representative Moses, you are out of order. Can some of your colleagues help you straighten this out? Should I call another recess so you can sort this thing out? Recess."

At 12:51 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at o'clock 12:52 p.m.

At this time, the Chair stated:

"Members, for your edification. A point of information is only proper if you are raising a parliamentary inquiry. If you have a certain question, the way to do it is ask me to ask a Member to yield to a question. So Representative Moses, in your situation, you could have asked me ask Representative Takumi or any other Member on the Education Committee to yield to a question.

"For your future edification, and for the Members, if you need to stand up and discuss certain points, you need to at least state your position, whether you are in favor or against, or state a parliamentary inquiry or a point of information. Thank you. Any other discussion?"

Representative Takumi rose, stating:

"Thank you very much, Madame Speaker. Let me clarify that. The Department of Education raised some concerns on the way the current bill was written, primarily because of the language around transgender. So what we did was to say that, and if you read the Committee Report in its entirety, your Education Committee felt that the legal definition of transgender, sexual identity, sexual orientation was best left to the next Committee, the Judiciary Committee, to deal with as how that would be defined. We did not feel that it was the role of the Education Committee to come up with a legal definition about all those terms.

"Concerning the question or the ..."

The Chair interrupted, stating:

"Representative Takumi, did you state your position?"

Representative Takumi continued in support of the measure, stating:

"Oh, I guess I'm in support. Okay. Concerning the cross-dressing issue, again if you read the bill carefully, someone who just says ... Okay take a male student, and one day he shows up wearing female clothes. The policy would not allow that person to try out for the girls' soccer team. It's very clear that this is meant for those students who are transgendered.

"Now again, that legal definition will be determined by the Judiciary Committee. But already, transgendered is a legal term used outside of high school activities. You have to undergo an operation. You have to be taking certain shots that change your hormonal balance and the whole bit. So it's not quite as simple as self-identifying yourself as some other gender or not. It's medical definition, as well as a legal one. Thank you."

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

"I'm rising with reservations. I was present at the Education hearing and was able to hear the testimony from the Department of Education and other supporters of the bill. And at the end of the hearing, there were still some questions like the Chair of Education had mentioned, as far as the definitions and different things that would be better addressed in Judiciary.

"So I will continue to watch and see what happens as it goes through the hearings and then be able to take a strong position after that time. Thank you."

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

Representative Kahikina 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 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. 1892, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Judiciary with Representatives Moses and Stonebraker voting no, and with Representative Pendleton being excused.

Representative Takai, for the Committee on Higher Education presented a report (Stand. Com. Rep. No. 238-04) recommending that H.B. No. 1723, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1723, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO THE UNIVERSITY OF HAWAII," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representatives Takai and Takumi, for the Committee on Higher Education and the Committee on Education presented a report (Stand. Com. Rep. No. 239-04) recommending that H.B. No. 1893, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1893, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Schatz, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 240-04) recommending that H.B. No. 2142, as amended in HD 1, be recommitted to the Committee on Economic Development and Business Concerns.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2142, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BUSINESS PRACTICES," was recommitted to the Committee on Economic Development and Business Concerns, with Representative Pendleton being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 241-04) recommending that H.B. No. 557, as amended in HD 1, be recommitted to the Committee on Health.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 557, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," was recommitted to the Committee on Health, with Representative Pendleton being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 242-04) recommending that H.B. No. 558, as amended in HD 1, be recommitted to the Committee on Health.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 558, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," was recommitted to the Committee on Health, with Representative Pendleton being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 243-04) recommending that H.B. No. 559, as amended in HD 1, be recommitted to the Committee on Health.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 559, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," was recommitted to the Committee on Health, with Representative Pendleton being excused.

Representative Takai, for the Committee on Higher Education presented a report (Stand. Com. Rep. No. 244-04) recommending that H.B. No. 891, as amended in HD 1, be recommitted to the Committee on Higher Education.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 891, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," was recommitted to the Committee on Higher Education, with Representative Pendleton being excused.

SUSPENSION OF RULES

On motion by Representative Lee, seconded by Representative Meyer and carried, the rules were suspended for the purpose of considering certain bills on Third Reading on the basis of a modified consent calendar. (Representative Pendleton was excused.)

THIRD READING

H.B. No. 2683:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2683, entitled: "A BILL FOR AN ACT RELATING TO DEFERRED ACCEPTANCE OF GUILTY PLEA AND DEFERRED ACCEPTANCE OF NOLO CONTENDERE PLEA," passed Third Reading by a vote of 50 ayes, with Representative Pendleton being excused.

H.B. No. 2685:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2685, entitled: "A BILL FOR AN ACT RELATING TO BAIL JUMPING," passed Third Reading by a vote of 50 ayes, with Representative Pendleton being excused.

H.B. No. 2689:

Representative Saiki moved that H.B. No. 2689, pass Third Reading, seconded by Representative Lee.

Representative Fox rose to a point of order, stating:

"Madame Speaker, point of order. I believe you called the wrong bill on the first of the three."

The Chair then stated:

"Excuse me. If I did, let me correct it. House Bill 2683, any discussion? House Bill 2685 or 2689, any discussion? Thank you for the correction, Representative Fox."

The motion was put to vote by the Chair and carried, and H.B. No. 2689, entitled: "A BILL FOR AN ACT RELATING TO STALKING," passed Third Reading by a vote of 50 ayes, with Representative Pendleton being excused.

At 12:58 o'clock p.m., the Chair noted that H.B. Nos. 2683; 2685; and 2689 passed Third Reading.

INTRODUCTION OF RESOLUTIONS

By unanimous consent, the following resolution (H.R. No. 22) and concurrent resolution (H.C.R. No. 39) were referred to Printing and further action was deferred:

H.R. No. 22, entitled: "HOUSE RESOLUTION REQUESTING THE BOARD OF AGRICULTURE TO AMEND ITS RULES TO PROHIBIT THE POSSESSION, PROPAGATION, SALE, TRANSFER, OR HARBORING OF NONHUMAN PRIMATES IN HAWAII, WITH CERTAIN EXCEPTIONS," was jointly offered by Representatives Leong, Abinsay, Karamatsu, Magaoay, Wakai, B. Oshiro, Tamayo, Marumoto, Chang, Jernigan and Halford.

H.C.R. No. 39, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE BOARD OF AGRICULTURE TO AMEND ITS RULES TO PROHIBIT THE POSSESSION, PROPAGATION, SALE, TRANSFER, OR HARBORING OF NONHUMAN PRIMATES IN HAWAII, WITH CERTAIN EXCEPTIONS," was jointly offered by Representatives Leong, Abinsay, Karamatsu, Magaoay, Sonson, Wakai, B. Oshiro, Tamayo, Chang, Marumoto, Jernigan and Halford.

LATE INTRODUCTION

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

Representative Thielen introduced members of CARE, Citizens Achieving Reform in Education.

ANNOUNCEMENTS

Representative Arakaki, for the Committee on Health, requested a waiver of the 48-hour hearing notice requirement

for the purpose of hearing several House bills, and the Chair "so ordered."

Representative Arakaki: "Thank you. Madame Speaker, this is for tomorrow, starting at 9 o'clock in conference room 329. House Bill 2091, Relating to Peer Review. This is for patients' safety. House Bill 557, House Draft 1, Relating to Health, to clarify the primacy of Department of Health relating to regulation of the sale of fish. House Bill 558, House Draft 1, Relating to Health. This is for expansion of the PACE Program. And House Bill 559, House Draft 1, Relating to Health, prohibits the disposal of hazardous waste from medical facilities in landfills. And we also have some other bills for decision making that were duly noticed and posted. Thank you."

Representative Takai, for the Committee on Higher Education, requested a waiver of the 48-hour hearing notice requirement for the purpose of a joint hearing with the Education Committee on House Bill 1888, and House Bill 891, House Draft 1, and the Chair "so ordered."

Representative Takai: "Thank you. The hearing for these two measures will be at 1:15 tomorrow in the Auditorium prior to our Education/Judiciary Joint. Thank you, Madame Speaker."

ADJOURNMENT

At 1:01 o'clock p.m. on motion by Representative Lee, seconded by Representative Meyer and carried, the House of Representatives adjourned until 12:00 o'clock noon tomorrow, Thursday, February 19, 2004. (Representative Pendleton was excused.)

NINETEENTH DAY

Thursday, February 19, 2004

The House of Representatives of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004, convened at 12:01 o'clock p.m., with the Speaker presiding.

The invocation was delivered by Representative Robert N. Herkes, after which the Roll was called showing all members present with the exception of Representatives Ching, Halford, Hiraki, Kanoho, Meyer and M. Oshiro, who were excused.

On motion by Representative Lee, seconded by Representative Bukoski and carried, reading of the Journals was dispensed with and the Journals of the Seventh and Eighth Days were approved. (Representatives Halford, Hiraki, Kanoho, Meyer, and M. Oshiro were excused.)

INTRODUCTIONS

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

Representative Pendleton introduced his family visiting from California. Seating in the gallery were his uncle, Mr. Sam Pulido; aunt, Ms. Annie Pulido; cousin, Ms. Kathie Cabansag accompanied by his wife, Mrs. Noemi Pendleton and son, David II.

Representative Moses introduced Lieutenant General H.C. Hank Stackpole and recognized 96 fellows of the Asia Pacific Center for Security Studies.

Representative Waters introduced the 5th grade class from Waimanalo Elementary School accompanied by their teacher, Mrs. Diane Gibbons and parent, Mrs. Kaneshiro.

Representative Herkes introduced Retired Lieutenant Colonel Kathy Ingram.

ORDER OF THE DAY

COMMITTEE ASSIGNMENTS

The following Senate bills were referred to committee by the Speaker:

S.B.Nos.Referred to:

1000, SD 1	Committee on Human Services and Housing, then to the Committee on Judiciary
2003, SD 1	Committee on Transportation, then to the Committee on Judiciary
2015	Committee on Transportation, then to the Committee on Judiciary
2021, SD 1	Committee on Transportation, then to the Committee on Judiciary
2022	Committee on Transportation, then to the Committee on Judiciary
2344, SD 1	Jointly to the Committee on Transportation and the Committee on Public Safety and Military Affairs, then to the Committee on Judiciary

The following resolution (H.R. No. 22) and concurrent resolution (H.C.R. No. 39) were referred to committee by the Speaker:

H.R.No.Referred to:

22	Committee on Agriculture, then to the Committee on Judiciary
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H.C.R.No.Referred to:

39	Committee on Agriculture, then to the Committee on Judiciary
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COMMITTEE REASSIGNMENTS

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

H.B.Nos.Re-referred to:

1906, HD 1	Committee on Higher Education, then to the Committee on Finance
1907, HD 1	Committee on Higher Education, then to the Committee on Finance
2040, HD 1	Jointly to the Committee on Health and the Committee on Labor and Public Employment, then to the Committee on Finance
2149	Committee on Finance
2332	Jointly to the Committee on Education and the Committee on Labor and Public Employment and the Committee on Judiciary, then to the Committee on Finance
2361	Committee on Judiciary
2503	Committee on Human Services and Housing, then to the Committee on Judiciary
2522	Committee on Finance

INTRODUCTION OF RESOLUTION
(FLOOR PRESENTATION)

The following resolution (H.R. No. 24) was announced by the Clerk and the following action taken:

H.R. No. 24, entitled: "HOUSE RESOLUTION RECOGNIZING JONATHAN COWLES, JAE KWON LEE, MAEONA MENDELSON, JAN RUMI, AND TERESITA BERNALLES FOR THEIR CONTRIBUTIONS OF INTERNATIONAL SIGNIFICANCE," was jointly offered by Representatives Hale and Shimabukuro.

Representative Hale, moved that H.R. No. 24 be adopted, seconded by Representative Shimabukuro.

Representative Hale introduced the following honorees who were seated on the floor of the House:

Mr. Jonathan Cowles and Mr. Jae Kwon Lee, co-founders of the Hawaii Goodwill and Friendship Coastal Korea Visit;

Dr. Maona Mendelson, PhD., organizer of the Hawaii contingent to the 2003 World Youth Congress in Morocco;

Mr. Jan Rumi, Honorary Consulate to Hawaii from the Kingdom of Morocco; and

Dr. Teresita Bernales, Ed.D., International Visitor Program Coordinator for the Pacific and Asian Affairs Council.

At this time, Representative Hale recognized in the gallery, Mr. Bernie Bernales, husband to Dr. Bernales.

The motion was put to vote by the Chair and carried, and H.R. No. 24 was adopted with Representatives Halford, Hiraki, Nakasone, M. Oshiro, Takai and Takumi being excused.

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 1:06 o'clock p.m.

STANDING COMMITTEE REPORTS

Representative Magaoay, for the Committee on Legislative Management presented a report (Stand. Com. Rep. No. 245-04) recommending that H.B. No. 2158, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2158, entitled: "A BILL FOR AN ACT RELATING TO FINANCIAL DISCLOSURE STATEMENTS," passed Second Reading and was referred to the Committee on Judiciary.

Representative Magaoay, for the Committee on Legislative Management presented a report (Stand. Com. Rep. No. 246-04) recommending that H.B. No. 2268, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2268, entitled: "A BILL FOR AN ACT RELATING TO CAMPAIGN SOLICITATIONS IN STATE OFFICES OR BUILDINGS," passed Second Reading and was referred to the Committee on Judiciary.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 247-04) recommending that H.B. No. 2249, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, 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 CHAPTER 291E, HAWAII REVISED STATUTES," passed Second Reading and was referred to the Committee on Judiciary.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 248-04) recommending that H.B. No. 2251, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee

was adopted and H.B. No. 2251, entitled: "A BILL FOR AN ACT RELATING TO CHAPTER 291E," passed Second Reading and was referred to the Committee on Judiciary.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 249-04) recommending that H.B. No. 2250, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2250, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HABITUAL OPERATION OF A VEHICLE UNDER THE INFLUENCE OF AN INTOXICANT," passed Second Reading and was referred to the Committee on Judiciary.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 250-04) recommending that H.B. No. 2374, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2374, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHAPTER 291E, HAWAII REVISED STATUTES," passed Second Reading and was referred to the Committee on Judiciary.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 251-04) recommending that H.B. No. 2253, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

Representative Saiki moved that the report of the Committee be adopted and H.B. No. 2253, HD 1, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. I'm rising in support for Standing Committee Report 251-04, regarding excessive speeding.

"I definitely support the bill and many portions of the bill; however, I just feel that it doesn't go far enough for subsequent offenders. 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. 2253, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SPEEDING," passed Second Reading and was referred to the Committee on Judiciary.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 252-04) recommending that H.B. No. 2527, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2527, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL INTEREST VEHICLES," passed Second Reading and was referred to the Committee on Judiciary.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 253-04) recommending that H.B. No. 2671, pass Second Reading and be referred to the Committee on Judiciary.

Representative Saiki moved that the report of the Committee be adopted and H.B. No. 2671, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Lee.

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

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

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

Representative Chang 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 Bukoski 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. 2671, entitled: "A BILL FOR AN ACT RELATING TO RECONSTRUCTED VEHICLES," passed Second Reading and was referred to the Committee on Judiciary with Representatives Blundell, Bukoski, Chang, Jernigan and Ontai voting no.

Representatives Souki and Ito, for the Committee on Transportation and the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 254-04) recommending that H.B. No. 2702, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2702, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL NUMBER PLATES," passed Second Reading and was referred to the Committee on Judiciary.

Representative Abinsay, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 255-04) recommending that H.B. No. 2926, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2926, entitled: "A BILL FOR AN ACT RELATING TO THE WAIMANALO RESEARCH AND OUTREACH CENTER," passed Second Reading and was referred to the Committee on Finance.

Representatives Abinsay and Schatz, for the Committee on Agriculture and the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 256-04) recommending that H.B. No. 2784, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2784, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE ENTERPRISE ZONES," passed Second Reading and was referred to the Committee on Finance.

Representatives Kahikina and Arakaki, for the Committee on Human Services and Housing and the Committee on Health

presented a report (Stand. Com. Rep. No. 257-04) recommending that H.B. No. 1868, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1868, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAREGIVER CONSENT," passed Second Reading and was referred to the Committee on Judiciary.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 258-04) recommending that H.B. No. 2539, HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2539, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HOSPITALS," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 259-04) recommending that H.B. No. 1991, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1991, entitled: "A BILL FOR AN ACT RELATING TO AUTOMATIC EXTERNAL DEFIBRILLATORS," passed Second Reading and was referred to the Committee on Judiciary.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 260-04) recommending that H.B. No. 2131, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2131, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR DONATED DENTAL SERVICES," passed Second Reading and was referred to the Committee on Finance.

Representative Hale, for the Committee on International Affairs presented a report (Stand. Com. Rep. No. 261-04) recommending that H.B. No. 2859, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2859, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEVELOPMENT OF AN INTERNATIONAL EQUESTRIAN FACILITY," passed Second Reading and was referred to the Committee on Finance.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 262-04) recommending that H.B. No. 2394, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2394, entitled: "A BILL FOR AN ACT RELATING TO THE MAINTENANCE OF PROPERTIES WITHIN THE KALAELOA COMMUNITY DEVELOPMENT DISTRICT," was referred to the Committee on Finance.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 263-04) recommending that H.B. No. 2817, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2817, entitled: "A BILL FOR AN ACT RELATING TO THE GREAT SEAL OF THE STATE," passed Second Reading and was referred to the Committee on Judiciary.

Representative Takumi, for the Committee on Education presented a report (Stand. Com. Rep. No. 264-04) recommending that H.B. No. 1882, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted and H.B. No. 1882, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Meyer rose to speak, stating:

"Stand. Com. Report 264. This is calling for additional career counselors at every high school. I noticed that the Department of Education testified that they supported the intent but they don't want to take away funds from other programs. And I don't see a dollar amount but that's my consideration is how much this will cost. How will this affect balancing of the budget."

The Chair asked Representative Meyer:

"You're up or down?"

Representative Meyer responded, stating:

"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. 1882, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL PERSONNEL," passed Second Reading and was referred to the Committee on Finance.

Representative Takumi, for the Committee on Education presented a report (Stand. Com. Rep. No. 265-04) recommending that H.B. No. 2587, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2587, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Finance.

Representative Takumi, for the Committee on Education presented a report (Stand. Com. Rep. No. 266-04) recommending that H.B. No. 2911, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted and H.B. No. 2911, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"I'm sorry, just asking to rule on a possible conflict. My daughter goes to a charter school." And the Chair declared, "no conflict."

Representative Finnegan 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 support of the measure with reservations, stating:

"Thank you, Mr. Speaker. I am rising with some reservations on this measure, Stand. Com. Report 266."

"I am concerned that we may be adding more requirements to the charter schools when they're fledgling as it is. It seems like every year we come back and ask for more different provisions that they must comply with. In my mind, most of the charter schools are more accountable than the other schools. Many of them are managing all the money at the school level. That's my only concern, that this is going to make life harder for them. 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. 2911, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHARTER SCHOOLS," passed Second Reading and was referred to the Committee on Finance.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 267-04) recommending that H.B. No. 2035, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2035, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL SERVICES," passed Second Reading and was referred to the Committee on Finance.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 268-04) recommending that H.B. No. 2430, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2430, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL BOARD DISCIPLINARY ACTION," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 269-04) recommending that H.B. No. 2475, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2475, entitled: "A BILL FOR AN ACT RELATING TO GENERIC SUBSTITUTION OF PRESCRIPTION DRUG PRODUCTS," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 270-04) recommending that H.B. No. 2092, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2092, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICINE AND SURGERY," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce.

Representative Schatz, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 271-04) recommending that H.B. No. 1957, pass Second Reading and be referred to the Committee on Judiciary.

Representative Saiki moved that the report of the Committee be adopted and H.B. No. 1957, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. I stand in support of Stand. Com. 271. House Bill 1957.

"I think this is a good pro-business bill. It's a specialty industry that's been restricted by the current three tier system. And it's not a huge industry in the State at this point. I feel that if we can get this bill passed that it will encourage other people to get into this industry. And I think it's good for the economy. 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. 1957, entitled: "A BILL FOR AN ACT RELATING TO LICENSING," passed Second Reading and was referred to the Committee on Judiciary.

INTRODUCTION OF RESOLUTION

By unanimous consent, the following concurrent resolution (H.C.R. No. 40) was referred to Printing and further action was deferred:

H.C.R. No. 40, entitled: "HOUSE CONCURRENT RESOLUTION DESIGNATING THAT MISS HAWAII, OF THE MISS AMERICA SCHOLARSHIP PROGRAM, SHALL SERVE AS THE OFFICIAL HONORARY HOSTESS OF THE STATE OF HAWAII DURING HER TERM AS MISS HAWAII," was jointly offered by Representatives Chang, Marumoto, Karamatsu, Schatz, Abinsay, Herkes, Wakai, B. Oshiro, Leong, Jernigan, Sonson, Tamayo, Ontai and Magaaoay.

ANNOUNCEMENTS

Representative Takai: "Mr. Speaker, I just wanted to remind the Members of the Education Committee and Higher Education Committee that we have a hearing in 3 minutes in the Auditorium. Thank you."

Representative Schatz: "Thank you, Mr. Speaker. Your Committee on Economic Development and Business Concerns as well as the Committee on Tourism and Culture respectfully

requests a waiver of the 48-hour notice requirement for the purpose of reconsidering prior decision-making on House Bill 2611," and the Chair "so ordered."

Representative Schatz: "Thank you, Mr. Speaker. And we will have decision-making tomorrow morning at 9 a.m. in conference room 325."

Representative Shimabukuro: "Mr. Speaker, your Committee on Human Services and Housing respectfully requests a waiver of the 48-hour advanced notice requirement for the purpose of conducting a public hearing with decision making to follow on House Bill 2088, relating to critical access hospitals," and the Chair "so ordered."

Representative Shimabukuro: "That measure will be heard in the Joint Committee on Human Services and Health on Friday, February 20, 2004, 9 a.m. in conference room 329. Thank you, Mr. Speaker."

Representative Kaho'ohalahala: "Mr. Speaker, the Committee on Water, Land Use and Hawaiian Affairs would like to request a waiver of the 48-hour hearing notification for the purpose of decision making on bills previously heard," and the Chair "so ordered."

Representative Kaho'ohalahala: "Okay. The following measures will be voted on tomorrow at 8:30 a.m. with the Water, Land Use and Hawaiian Affairs Committee in the hearing room 325. And we will be having decision-making on House Bill 2041 regarding State Parks, House Bill 2840 regarding Economic Development for Kalaheo, and House Bill 2447 regarding The Hawaiian Homes Commission."

ADJOURNMENT

At 1:14 o'clock p.m. on motion by Representative Lee, seconded by Representative Meyer and carried, the House of Representatives adjourned until 12:00 o'clock noon tomorrow, Friday, February 20, 2004.

TWENTIETH DAY

Friday, February 20, 2004

The House of Representatives of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004, convened at 12:06 o'clock p.m., with the Speaker presiding.

The invocation was delivered by Mr. Todd Nishimura of the New Hope Christian Fellowship – Leeward, Oahu, after which the Roll was called showing all members present with the exception of Representative Bukoski who was excused.

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

INTRODUCTIONS

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

Representative Arakaki introduced 4th grade students from Kalihi Uka Elementary School; teachers, Ms. Lily Hebert and Ms. Alison Lagon; and student teacher, Mr. Bernard Ragama.

Representative Blundell introduced constituents from West Maui, Mr. Gene and Mrs. Gina Moore.

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

The House of Representatives reconvened at 12:30 o'clock p.m.

LATE INTRODUCTIONS

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

Representative Caldwell introduced Representative Boyd Marley of the Maine State House of Representatives who was in Hawaii with the Clean Elections Program.

Representative Souki: "Point of information. I'm just wondering what happened to the other Representatives and Senators that did not get elected through the Clean Elections Program?"

Representative Thielen introduced environmentalists, Ms. Kat Brady and Mr. Henry Curtis.

ORDER OF THE DAY

COMMITTEE REASSIGNMENT

The following bill was re-referred to committee by the Speaker:

H.B.
No.

Re-referred to:

2455 Jointly to the Committee on Human Services and Housing and the Committee on Health, then to the Committee on Finance

STANDING COMMITTEE REPORTS

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 272-04) recommending that H.B. No. 2314, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2314, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL IMPACT STATEMENTS," passed Second Reading and was referred to the Committee on Finance.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 273-04) recommending that H.B. No. 2814, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2814, HD 1, entitled: "A BILL FOR AN ACT RELATING TO KALAUPAPA SETTLEMENT," passed Second Reading and was referred to the Committee on Finance.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 274-04) recommending that H.B. No. 2098, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce and the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2098, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL RECORDS," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce and the Committee on Judiciary.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 275-04) recommending that H.B. No. 2052, HD 1, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2052, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL IMPACT STATEMENTS," was referred to the Committee on Finance.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 276-04) recommending that H.B. No. 2407, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2407, entitled: "A BILL FOR AN ACT RELATING TO ALIEN INSURERS," passed Second Reading and was referred to the Committee on Finance.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 277-04) recommending that H.B. No. 2414, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2414, entitled: "A BILL FOR AN ACT RELATING TO DENTAL INSURANCE," passed Second Reading and was referred to the Committee on Finance.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 278-04) recommending that H.B. No. 2412, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2412, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INTERSTATE INSURANCE COMPACT," passed Second Reading and was referred to the Committee on Finance.

Representatives Hiraki and Hamakawa, for the Committee on Consumer Protection and Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 279-04) recommending that H.B. No. 2429, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2429, entitled: "A BILL FOR AN ACT RELATING TO ESCROW DEPOSITORIES," passed Second Reading and was referred to the Committee on Finance.

Representatives Hiraki and Hamakawa, for the Committee on Consumer Protection and Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 280-04) recommending that H.B. No. 2433, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative Saiki, 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 BUSINESS REGISTRATION," was referred to the Committee on Finance.

Representative Chang, for the Committee on Tourism and Culture presented a report (Stand. Com. Rep. No. 281-04) recommending that H.B. No. 2061, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2061, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS TAX," passed Second Reading and was referred to the Committee on Finance.

Representatives M. Oshiro and Arakaki, for the Committee on Labor and Public Employment and the Committee on Health presented a report (Stand. Com. Rep. No. 282-04) recommending that H.B. No. 2873, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2873, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH SAVINGS ACCOUNTS," passed Second Reading and was referred to the Committee on Finance.

Representatives Arakaki and Kahikina, for the Committee on Health and the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 283-04) recommending that H.B. No. 2113, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2113, HD 1, entitled: "A BILL FOR

AN ACT RELATING TO FAMILY CAREGIVERS," passed Second Reading and was referred to the Committee on Finance.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 284-04) recommending that H.B. No. 1839, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce and the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1839, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PAIN PATIENT'S BILL OF RIGHTS," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce and the Committee on Judiciary.

Representatives Kahikina and Magaoay, for the Committee on Human Services and Housing and the Committee on Legislative Management presented a report (Stand. Com. Rep. No. 285-04) recommending that H.B. No. 1886, pass Second Reading and be referred to the Committee on Education.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1886, entitled: "A BILL FOR AN ACT RELATING TO YOUTH INVOLVEMENT," passed Second Reading and was referred to the Committee on Education.

Representatives Kahikina and Arakaki, for the Committee on Human Services and Housing and the Committee on Health presented a report (Stand. Com. Rep. No. 286-04) recommending that H.B. No. 2616, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2616, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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:

"Thank you, Mr. Speaker. I register a vote with reservations. This bill will be hashed-out hopefully in the Finance Committee because the reservations that I have are regarding the price tag that it will incur on the departments. So I look forward to seeing it next time around."

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2616, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HUMAN SERVICES," passed Second Reading and was referred to the Committee on Finance with Representative Fox voting no.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 287-04) recommending that H.B. No. 2023, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2023, HD 1, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Lee.

Representative Fox 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 Jernigan 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."

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

"Mr. Speaker, I stand in support. Despite what the Department of Human Services stated at the hearing before the Human Services and Housing Committee, the Hawaii Administrative Procedure Act or HAPA, which is found in HRS Chapter 91, does not provide that welfare contested cases are hearings *de novo*.

"In Korean Buddhist Dae Won Sa Temple vs. Sullivan, the Hawaii Supreme Court held, and I quote:

the Temple argues that '[a] contested case hearing implies a hearing *de novo*.' ... The Temple cites no authority, however, in support of its position that a contested case hearing must be a hearing *de novo*, and indeed, there is no such support in the language of HAPA. When it has intended to require *de novo* review within the context of internal agency appeals, the legislature has demonstrated elsewhere in HRS that it is capable of expressly saying so. ... The absence of such clear language in HAPA implies that the legislature did not intend to mandate a uniform review mechanism for all internal agency appeals.

"A *de novo* hearing is one in which the hearing officer does not defer to the decision, recommendations, or evidence of the DHS medical board. It means that DHS's position is not accorded presumptive validity -- although the appellant bears the burden of persuasion.

"In King v. Chandler, the hearing officer relied on the DHS Medical Board's testimony that the treating physician is biased. And in another recent hearing, the DHS Medical Board said that because of the training given to DHS examiners, any doctor not trained by DHS is not qualified to determine whether a claimant meets the criteria for General Assistance.

"Under 'de novo' review, DHS's testimony would be taken for what its worth, but given no more weight necessarily than the treating doctor's testimony. As the hearing officer could only find the treating doctor to be biased if evidence in the record gave him reason to question the treating doctor's credibility, and/or impartiality. The difference may be a fine line, but it is a line nevertheless.

"This bill will have a very far-reaching effect, and it will not cost a dime. It makes sense, because all we are saying is that

everyone appealing deserves a fair hearing; one in which a welfare applicant's claim has not been pre-judged. Thank you."

Representative Fox rose to a point of order, stating:

"Point of order, Mr. Speaker. I would like a declaration of conflict of interest on the part of the preceding speaker."

The Chair responded, stating:

"Representative Shimabukuro, I believe she does not have a ... Recess, subject to the call of the Chair."

At 12:37 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:39 o'clock p.m.

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

"Mr. Speaker, I would like to stand in support of the measure which is a Women's Caucus measure and I would like to insert written comments in support," and the Chair "so ordered."

Representative Lee's written remarks are as follows:

"Mr. Speaker, I rise in support of this Women's Caucus measure.

"This measure provides public-assistance recipients and applicants with an opportunity for a fair hearing when appealing to the Director of Human Services by requiring that the hearing shall be a new hearing.

"The Legal Aid Society testified that their clients' experience too often is that the DHS hearing officer summarily confirms the previous determinations made by DHS. This neither creates an impression initially for DHS clients, nor is it a fair procedure, even if it fulfills the minimal obligation of "due process." Many of those adversely affected by such summary DHS decisions are single mothers, including single mothers with children. This is why your Women's Caucus chose to take up this issue. DHS should handle cases in accordance with the laws and rules established, but the consequences of a bad decision on the part of DHS are so strong that this measure is a prudent and just thing for us to do.

"I urge my colleagues to support this measure. Thank you."

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

"Thank you, Mr. Speaker. I'm rising because my major concern on this bill ... I'm sorry. I had written down with reservations and I thought I had expressed that.

"The speaker, the Representative from Waianae, had expressed the concern of the people that are getting services from the Department of Human Services should get a fair hearing. And the law as it exists now does that. My concern and my reason for having reservations on this bill is this bill goes farther than that and provides for this hearing *de novo*, which could have a financial impact because it's like we look at it again, and look at it again, and we can look at it again. And if you're not happy with the hearing results, we can keep coming back. And this can have a very costly effect. Thank you, Mr. Speaker."

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

"Reservations, Mr. Speaker. This was one of those bills that I appreciate being in the Legislature because we get to learn new phrases and terms. When we want to award triple damages, we say 'treble damages'. When we want to have hearings that are again and again, we say 'de novo'. So I appreciate the fact that I get to learn little about Latin, but most of the discussion in the Committee was about the confusion of using this term. So maybe we should stick to English and that way everyone will be on equal playing field. And the attorneys that use Latin often maybe won't have the advantage.

"But there are some genuine concerns about the cost and that's why the Departments were there to testify in opposition. They would not testify in opposition if it would not cost a dime. And so they are concerned about this and we should really consider that as a Body. So reservations."

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

"I rise in *sua sponte* support of this measure. And I ask that the words of the Representative from Ma'ili be incorporated as my own. Thank you," and the Chair "so ordered." (By reference only.)

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2023, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ADMINISTRATIVE APPEALS," passed Second Reading and was referred to the Committee on Judiciary with Representatives Fox and Jernigan voting no.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 288-04) recommending that H.B. No. 2811, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2811, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO ASSIST MAUI COUNTY ON INDIGENOUS HAWAIIAN ARCHITECTURE," passed Second Reading and was referred to the Committee on Finance.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 289-04) recommending that H.B. No. 2955, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2955, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE PARKS," passed Second Reading and was referred to the Committee on Finance.

Representative Chang, for the Committee on Tourism and Culture presented a report (Stand. Com. Rep. No. 290-04) recommending that H.B. No. 448, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 448, entitled: "A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS TAX," passed Second Reading and was referred to the Committee on Finance.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 291-04) recommending that H.B. No. 2262, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2262, entitled: "A BILL FOR AN ACT RELATING TO PENSION AND RETIREMENT SYSTEMS," passed Second Reading and was referred to the Committee on Finance.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 292-04) recommending that H.B. No. 2403, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2403, entitled: "A BILL FOR AN ACT RELATING TO THE FEDERAL TAX LIMIT ON COMPENSATION APPLICABLE TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Second Reading and was referred to the Committee on Finance.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 293-04) recommending that H.B. No. 2404, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2404, entitled: "A BILL FOR AN ACT RELATING TO FEDERAL TAX QUALIFICATION OF THE EMPLOYEES' RETIREMENT SYSTEM," passed Second Reading and was referred to the Committee on Finance.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 294-04) recommending that H.B. No. 2229, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2229, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT RECORDS," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 295-04) recommending that H.B. No. 2215, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2215, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT," passed Second Reading and was referred to the Committee on Finance.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 296-04) recommending that H.B. No. 2398, as amended in HD

1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2398, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Second Reading and was referred to the Committee on Finance.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 297-04) recommending that H.B. No. 2090, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2090, HD 1, 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 with reservations, stating:

"Mr. Speaker, I am rising with some reservations about Standing Committee Report 297-04. Thank you, Mr. Speaker. The way I read the bill and hearing the testimony of the DLIR Director, he pointed out that this would jeopardize our ERISA exemption. And I understand that the bill has been amended to say that if that is the case, then everything reverts to the way it was before this change to the HRS. But I don't think that will fly because the Regional Director of Labor, the National Director, already looked at the bill and said don't do it because it will jeopardize your ERISA exemption. So why are we tempting him? 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. 2090, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYEES," passed Second Reading and was referred to the Committee on Finance.

Representative Takai, for the Committee on Higher Education presented a report (Stand. Com. Rep. No. 298-04) recommending that H.B. No. 891, HD 1, as amended in HD 2, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 891, HD 2, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"I'm rising to express some reservations on Stand. Com. Report 298. This bill will create a new Training Revolving Fund for the University of Hawaii Medical School and Health Science Library. It transfers start up funds from the University of Hawaii Research and Training Revolving Fund. My concern is that it preempts the Board of Regents. I feel it's a backward step for the University of Hawaii autonomy. For that reason I can't just vote a clean aye. I have some reservations and I think that perhaps this might change as it moves through the process. Thank you."

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

"I would like a ruling on a possible conflict of interest. My father is an employee of the Department of Medicine," and the Chair ruled, "no conflict."

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

"Thank you. I rise in support of this measure. Thank you. Just very briefly, Mr. Speaker. In October of 2001, this Legislature funded the UH Medical School to tune of \$150 million bond float coming from the Tobacco Settlement funds. As a result of that, there was a commitment made by the University to fund the operations of this Medical School.

"Now I understand the previous speaker's concern regarding the autonomy, the flexibility that we provided to the University in 2000. However, one should note that the University came to the Governor, requested a \$3.8 million general fund appropriation for the Medical School in the next fiscal year. She agreed. It's now before us. Again Members, this is an additional general fund request for the UH Medical School of \$3.8 million. It's money that we do not have.

"So instead of saying no to the Medical School, what your Committee has decided to do was take a look at the Research and Training Revolving Fund balance of \$21 million and recommend to the University that they use part of that to fund this request. Again, and we do support the Medical School, and we believe that the Medical School and all that it offers, provides hope for this State. However, I will stand here till I get elected out of office, and I will say time and time again, our commitment was for \$150 million. Their commitment was to cover the cost operating this new facility. 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. 891, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Second Reading and was referred to the Committee on Finance.

Representative Takai, for the Committee on Higher Education presented a report (Stand. Com. Rep. No. 299-04) recommending that H.B. No. 2112, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2112, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"I wanted to speak in favor of Stand. Com. Report Number 299. This bill is really directed to support for caregivers and it's estimated in Hawaii that we have almost 115,000 family caregivers who provide approximately 107 million hours of care per year. And the value of that care is estimated to be in excess of \$800 million.

"We know however that these numbers are much greater because many caregivers do not identify themselves. It's not a census question nor is there a caregiver registry. Most family caregivers don't have the time to come to the Legislature to testify. They often provide 24-hour care for loved ones with little or no respite. Some caregivers have faithfully discharged their duties for years, giving up jobs, social life, and personal interest. So what can we do to help these family caregivers survive? House Bill 2121, HD 1 is one way.

"Our caregivers deserve to be supported and they need our help. More importantly we need them. Without the work of the family caregiver, our State's long-term care crisis will be much more severe. And the Legislature would be wise to support options to help them. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2112, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ESTABLISHING A LONG-TERM CARE CAREGIVER RESOURCE CENTER AT KAPIOLANI COMMUNITY COLLEGE," passed Second Reading and was referred to the Committee on Finance.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 300-04) recommending that H.B. No. 1885, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1885, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR A YOUTH SUMMIT," passed Second Reading and was referred to the Committee on Finance.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 301-04) recommending that H.B. No. 2531, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2531, HD 1, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. If I could vote with reservations please. Just briefly. Any contract requires competent parties in order to have a valid contract, and so offhand, and I did not sit through the Committee hearing on this. Offhand, I don't see why this is needed. Thank you."

Representative Stonebraker 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 an aye vote with reservations for her, and the Chair "so ordered."

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

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

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

"Thank you. With reservations. And just some concerns that I wanted to express. I know this is going on to Judiciary. The concerns would be regarding probate. Probate, if anyone's ever experienced it, can be a nightmare as it is. And I'm just concerned that this would complicate matters further. Thank you."

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

"Thank you. Just a brief comment in support. I appreciate some of the comments made earlier. And if we didn't have something like this, a situation that I am aware of, where an elderly woman with Alzheimer's entered into a contract to sell her home in the Diamond Head area for about \$60,000. These people who took advantage of this woman who has Alzheimer's are now suing her to validate the contract, and apparently there's nothing in the law that protects people like this. So that's the origin of this legislation, just for the edification of the Members. Thank you."

Representative Stonebraker rose to respond, stating:

"Thank you, Mr. Speaker. I would like to express the reasons for my reservations in response to the Vice Speaker. Incapacitated persons can be a broad definition. If I perhaps sold a piece of property, or a car, or anything for that matter, and there was a contract and at a later time I claim that I was incapacitated. Many in this Body would say that I am always incapacitated. But to some degree I could express that. Say I was depressed at the time. I was on medication. I had difficulty doing things. What we do is we open the door here for any claim of incapacity.

"If say perhaps a parent sells a home to a child at very cheap price for reasons they have within their family. That sibling now can challenge that. Or say a sibling in this case could challenge the sale from a parent to one child. It could be challenged by another child, perhaps for family strife or something of that nature. So there's a lot of things that we need to be concerned with as we move forward. I'm not voting no, but I'm hoping that the next Committee will look closely at it. Thank you."

The Chair responded, stating:

"That would be the Judiciary Committee."

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

"Thank you, Mr. Speaker. I rise in support. Mr. Speaker, the reasons that the previous speaker mentioned are the reasons why the Committee on Human Services felt that this needed to be passed on to the Committee on Judiciary, to flush out the legal issues. But as far as the purview of Human Services, we found that this issue rose up to the litmus test. That there are people out there that we were concerned about, and that these people may take advantage of the fact that they're incapacitated. And so we saw that there was validity in sending this issue on to the Judiciary Committee for those very reasons that people are standing up in opposition and the concerns that they raise. And I'm hoping that we could get support so that we can flush out some of these legal issues in hopes that we can put our mind and our hearts together in order to form a more perfect union for our people. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2531, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INCAPACITATED PERSONS," passed Second Reading and was referred to the Committee on Judiciary.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 302-04) recommending that H.B. No. 2359, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2359, 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.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 303-04) recommending that H.B. No. 1795, HD 1, as amended in HD 2, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1795, HD 2, entitled: "A BILL FOR AN ACT RELATING TO FOSTER CUSTODY," was referred to the Committee on Finance.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 304-04) recommending that H.B. No. 2025, HD 1, as amended in HD 2, be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2025, HD 2, be referred to the Committee on Finance, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. I have some reservations with Standing Committee Report Number 304-04. Thank you, Mr. Speaker. I'm not at all opposed to equal pay for equal work. My concern about this measure is I believe it will allow employees to have access to private records, personnel records. And that's my concern. 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. 2025, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EQUAL PAY," was referred to the Committee on Finance.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 305-04) recommending that H.B. No. 2296, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2296, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE USE OF CREDIT AND DEBIT CARDS," passed Second Reading and was referred to the Committee on Finance.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 306-04) recommending that H.B. No. 2365, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2365, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOBACCO," passed Second Reading and was referred to the Committee on Finance.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 307-04) recommending that H.B. No. 2715, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2715, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOBACCO SETTLEMENT," passed Second Reading and was referred to the Committee on Finance.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 308-04) recommending that H.B. No. 2529, as amended in HD 1, be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2529, HD 1, be referred to the Committee on Finance, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. I would like to speak in opposition to Stand. Com. Report 308. As I understand it, what's happening with this bill is this is strictly a county issue. And testimony against the bill came from the City and County of Honolulu's Department of Planning and Permitting along with Kamehameha Schools and LURF. This is up to the county to determine how it will deal with hazards that are placed in the nature of property. And it's going to increase the liabilities on the counties if we pass this bill.

"I don't think we should be handling it here. I think it should be basically up to the counties how they want to deal with it. And I believe that the party has come here in order to deal with this situation that he can't control at the county level. Thank you."

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

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

"Thank you. Speaking in support, briefly. This is to address the situation in our area in Nuuanu, and also in Hawaii Kai where because of recent new developments, there have been many rockslides and rock falls. And unfortunately, about a year ago, a rockslide and a rock fall killed one of the residents in my area.

"And you know, for the last 30 years, the City Zoning and the City Planning and Permitting has not changed its rules and regulations and the planning process. And unfortunately, in order for any development to happen, if an area is zoned urban, for urban use and residential use, all that a developer has to do is fill out some paper work and regardless of whether it's safe or not, the person or the developer can develop. And what we're requesting is that the City at least inventory the various lands around the separate counties and figure out if an area is susceptible to rockslides and rock falls. That they at least put in some additional requirements or some additional ordinances to protect the safety of the people on Oahu.

"I don't agree that this is a City issue. We have given the City many years and many opportunities to correct this mistake. They have failed to do so. When the counties failed to do so, it is the responsibility of the State to step in and ask them to do something like this. Thank you."

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

"Thank you. Mr. Speaker, I am rising in support of this measure. Thank you. Mr. Speaker, I spent a lot of time doing

land use law through the years. I am aware that the county doesn't follow through with some of these very important matters. What they do is, they will grant a subdivision approval, and they will put certain conditions upon the developer: no runoff, be careful when you grade, etcetera. There's no follow up. There's no way that the City then goes out to take a look at what is going on.

"On this one we had a real tragedy with the Onishi daughter. And a number of us here know the father, Patrick Onishi who was one of the lead people at the City and County and headed a Department. Something like that shouldn't happen if the City is required to go look at the area that's going to be subdivided. And we're not talking about looking at all areas of land. If you refer to the bill, on page 1, it's very clear. I quote to you:

... "hazardous land areas" shall include areas in urban use or potential urban use that are susceptible to rock or land slides that could cause serious injury or property damage.

"People say that this might subject the City to lawsuits. Well anyone, any government entity that is given a subdivision approval where there is unstable land and where it should not have been placed is going to be sued, and rightfully should be. This is much more a preventative measure, and I would really encourage Members to take a look at this and vote to send it on. Thank you."

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

"Yes, Mr. Speaker, I wish to speak with strong, strong reservations against this particular measure. Again, this seems to be another anti-homerule bill that we seem to be passing out. I believe that this responsibility is the responsibility of the respective counties.

"And there is a constitutional item in there. An amendment that says whenever we include language in legislation to provide for the counties to do a certain activities, we should provide them sufficient funds. The dollars to do this particular activities. Now, this case here is probably going to require additional staff of a different kind of skill. This will require that. It's going to be a financial burden on the respective counties. And the counties then would have every right to come back to us and request the funding for the particular positions for this measure.

"And again, I believe sincerely, this is a county issue that should be left to the respective counties. Thank you very much, Mr. Speaker."

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

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

Representative Sonson 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. 2529, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HAZARDOUS LAND," was referred to the Committee on Finance with Representatives Fox, Jernigan and Meyer voting no.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 309-04)

recommending that H.B. No. 2337, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2337, HD 1, entitled: "A BILL FOR AN ACT RELATING TO NAME CHANGES," passed Second Reading and was referred to the Committee on Finance.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 310-04) recommending that H.B. No. 2336, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2336, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC AGENCY MEETINGS," passed Second Reading and was referred to the Committee on Judiciary.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 311-04) recommending that H.B. No. 2466, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2466, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR THE STATE WORKERS' COMPENSATION PROGRAM," passed Second Reading and was referred to the Committee on Finance.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 312-04) recommending that H.B. No. 1786, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1786, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EXEMPT EMPLOYEES," passed Second Reading and was referred to the Committee on Finance.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 313-04) recommending that H.B. No. 2230, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2230, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SHORTAGE CATEGORIES," passed Second Reading and was referred to the Committee on Finance.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 314-04) recommending that H.B. No. 2325, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2325, HD 1, 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 with reservations, stating:

"Thank you, Mr. Speaker. I rise with reservations on Stand. Com. Report 314-04. At this point, I would like to say I am going to talk on several labor bills coming up and I would welcome the Labor Chair's comments if I'm misled here on my interpretation of the bills.

"But this one, 314-04, I believe it infringes on many worker's desires not to join a union. It basically means a contractor can't get a State or any kind of government contract unless they fill out all kinds of paperwork to show they're paying prevailing wage. And I think it mainly means that you are going to hire union workers. And I believe we are still in America and somebody should have the choice not to join a union but still be able to have a job. Thank you, Mr. Speaker."

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

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

"Mr. Speaker, this measure is strictly for those unionized ... I am in support. What happens here is in case of a dispute between the subcontractor, inter-department, or section of the union that has the contract, a hotel, then the employer ... What this measure is all about is that the employer should accord those subcontract employees the same benefits and wages. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I'm rising in opposition to this measure. In looking at the Committee Report, I see that the General Contractors Association of Hawaii and the Department of Labor had pretty grave concerns about this, as well as the Department of Accounting and General Services. So I don't think this is a perfect bill by any means. Thank you."

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

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

Representative Ching 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. 2325, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Second Reading and was referred to the Committee on Finance with Representatives Blundell, Ching, Jernigan, Meyer, Ontai and Stonebraker voting no.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 315-04) recommending that H.B. No. 1792, HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1792, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

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

"Thank you, Mr. Speaker. Again, reservations on this bill. If I understand it correctly, it authorizes TDI benefits for family leave purposes, and it further uses Reed Act Funds which I don't believe we can do properly."

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

"Thank you, Mr. Speaker. I would like to register my opposition to this same measure, and point out that the Committee Report doesn't show any support for this bill, and strong detailed opposition from the Department of Labor and Industrial Relations."

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

"Thank you, Mr. Speaker. I rise in opposition to this measure. Basically, my opposition has not to do with the general goal of this bill. I think the purpose may be a benevolent one. But what this bill does, it doesn't just authorize the Department of Labor to use these Federal Reed Act Funds in this fashion, but it directs. It mandates. It requires. And I think to the extent that, we are then creating a lack of flexibility. Tying the hands of that Department. And that's not a good thing."

"The Department said that they are open to it. They were going to look to see what they might need to do with those funds. In fact, when they were questioned, the Department testified that it was not needed at this time because of Hawaii's low unemployment rate. And that they would like to first fully plan how these monies should and ought to be used before requesting statutory authorizations. So for those reasons I think perhaps this measure is premature. So I would like to register a no vote at this time."

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

Representative Jernigan rose and stated:

"A no vote for 316."

Speaker Say: "So ordered. 315?"

Representative Jernigan: "No, for 316. I will wait. A no vote on 316, Mr. Speaker."

Speaker Say: "We're not on page 11. We're on page 10. So we're discussing 315."

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

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

"Mr. Speaker, I rise in support of this measure. What this measure does is direct the Department of Labor and Industrial Relations to use the sum of about \$1.5 million that they have in the current budget appropriation for the purposes of the Unemployment Insurance Fund. And we would have at our disposal in that particular Fund about \$30 million in Reed Act monies.

"This basically directs the Department of Labor and Industrial Relations to use this amount of money as a offset to

any general fund appropriations that might be currently used for the UI purposes. So that's the reason for this. We have \$30 million that's sitting there. And inasmuch to use \$1.5 of that for this purpose and to use general fund monies for other purposes. That's the intention, Mr. Speaker."

Representative Stonebraker rose to a point of order, stating:

"Point of order, Mr. Speaker. What bill are we talking about?"

Speaker Say: "Stand. Com. Rep. No. 315."

Representative Stonebraker: "Was the previous speaker speaking to that measure?"

Speaker Say: "Yes. In support. Stand. Com. Report 315."

Representative Stonebraker: "I'm not sure he was speaking ..."

Representative M. Oshiro: "Mr. Speaker, in strong support of this measure."

Representative Stonebraker: "Of 315 or 316?"

Speaker Say: "315. Okay, has it been clarified? We are not on page 11 but on page 10, the last bill on the page. Is there any further discussion, if not may we proceed to page 11 and the Chair will recognize Representative Jernigan."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1792, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LABOR," passed Second Reading and was referred to the Committee on Finance with Representatives Fox, Meyer, Pendleton and Stonebraker voting no.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 316-04) recommending that H.B. No. 2697, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2697, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Jernigan 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:

"Thank you, Mr. Speaker. A no vote on the same measure. I believe this requires employers to pay employees who are voluntarily out on strike. And I see that the current statute determines your eligibility for objective standards ensuring absence of government interference in collective bargaining processes. UI is intended to remain neutral. So the payment or denial of benefits shall not affect the outcome of collective bargaining. It is not designed to create leverage for any party in the labor dispute. And I think this bill violates that.

"The measure uses payment of UI compensation to coerce employers, I believe. To submit to arbitration is the unions' preferred method of settling contractual disputes. The fact-finding board duplicates, there's a fact finding board also established on the measure, Mr. Speaker. And it duplicates the roles of negotiating teams and arbitrators. The findings of facts

will be published, contradicting known practices of mediation where bargaining sessions are closed until final agreement.

"It involves the DLIR Director in appointing the fact finding board and that compromises his neutral position. Had this measure been in effect during the 2002 nurses' strike, 1,500 nurses out, and 2003 bus driver strike with 1,600 bus drivers out, I estimate the pay out would have been about \$3 million to \$4.5 million for each strike. Thank you, Mr. Speaker."

Representative Blundell rose in opposition to the measure 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 Ontai 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:

"I rise in opposition to this measure. If I could have the remarks of the Speaker from Kapolei incorporated as well," and the Chair "so ordered."

Representative Stonebraker continued, stating:

"As far as I understand it, this measure would bring unemployment insurance benefits into the process of collective bargaining. And I don't believe as a State, we should subsidize strikes.

"Currently we have a strike that is devastating subcontractors in this State. Thousands of good men and women will be losing their jobs because of a few hundred on strike. If the State begins to pay unemployment insurance for those people or if the State gets into this process and makes a statement toward the effect that unemployment insurance is to subsidize those strikers. What we do, is as a policy, this State, this Body says that we support workers going on strike. We think that it's a good thing that other subcontractors lose their job. And I do not want to be for one, a person that supports the devastation of our economy that's being brought on by numerous strikes.

"When somebody goes on strike, there's an inherent risk. And by passing a measure like this, we remove that risk and insulate those strikers from any sort of responsibility. There was a measure we passed the other day out of this Body, that would have disallowed employers in a labor dispute, to hire workers from any other place in the State. What we are saying as a Body and I want to make sure that I do not say this, I am in discord and disharmony with the will of this Body, if this is the statement because the statement as it stands from this measure is that you should go on strike and stay on strike and forget what problems it causes to the State of Hawaii. Who cares if you're a carpenter and you lose your job? Who cares if you're an electrician and you lose your job? Who cares if you're a glazer or a dry wall hanger? Who cares what you're doing, we support those people who are going on strike no matter what. Regardless of the fact that they may be getting a paid a substantial amount of money.

"I cannot and will not support this measure. And I urge the Members of this Body to consider carefully, the statement you're making to the people of Hawaii by supporting the loss of jobs and the devastation of the economy that this bill proposes."

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

"Mr. Speaker, I rise in strong support of the same measure. Mr. Speaker, what this measure attempts to do is to avoid the

current situation right now where you have the Teamsters out on strike because of the dispute. What this seeks to do is to compel both the workers and the employers back to the bargaining table, and basically provides that if the employer would refuse the union's offer, to submit the issues of the dispute to final and binding arbitration. What this does is compel both the employer and union to sit down and work something out.

"If this law was in place right now, we wouldn't have the cement workers out on strike. If this were in place last year with the bus workers, they wouldn't have gone on strike. So what this seeks to do is to drive the parties back to the bargaining table so that we don't even entertain the consequences of people going on strike.

"Mr. Speaker, what would happen now, just as an aside, is that the Department would have to determine whether or not there's been a substantial curtailment of the business regarding the two employers, Hawaiian Cement and the other folks, to determine whether or not the impact deserves that the striking workers get unemployment insurance. That's a detailed, convoluted, long process that for many people will never make them whole again.

"So Mr. Speaker, for these reasons I think this is a practical, realistic approach to avoid a strike and also to address the needs of our working people. Thank you."

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

"In support. If there's anybody in this House Body who has the experience in negotiation, I am one of them. And the last thing that we want during negotiation of a certain contract is to avoid strike. A strike is a lose-lose situation to everyone.

"So the purpose of this measure, Mr. Speaker, when the impasse arises, the employer and the employee meet and put the proposals on the table. There is going to be a final and bona fide offer to the employer. And if they reject this, they should go to the fact finding body that will be appointed by the Director of Labor. This is to avoid strike. Thank you, Mr. Speaker."

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

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

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

"Mr. Speaker, I would like to registers a no vote, and incorporate words from Representative from Hawaii Kai to be as my own.

"I think that this bill, the problem with this bill is that while it's very benevolent and nobody wants a strike, there is a balance in power. And as the Representative from Hawaii Kai said, there's an element of a gamble. And the gamble unfortunately when we do have strikes and we decide that we're going to offset this balance between labor and management, can result in completely destroying the house. Two siblings fighting, the house comes down.

"In my district, we have a bankrupt hospital. And if we lose that hospital, we're going to really be in a lot of trouble. And that hospital was affected by the last strike. Thank you."

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

"Thank you, Mr. Speaker. I rise in opposition to this measure. Mr. Speaker, I have great respect for my colleague from Ewa Beach and really value his counsel. This is one of those issues where I think we just sometimes have to agree to disagree, and despite the best of intentions, we end up having different perspectives.

"This particular measure, I think while well-intentioned, I think could have unintended consequences because as one of the previous speakers said, it shifts or changes the balance of power. We may actually find ourselves moving towards more of these kinds of labor disputes which may ultimately result in more strikes. I looked very carefully at all of the testimony, but found particularly persuasive, the testimony from the Department of Labor and Industrial Relations as well as the testimony in opposition by the Hawaii Chamber of Commerce. I don't think either of those testifiers want strikes. They don't want people to be paid less than they deserve. No one wants to put anyone out of work. But I think right now that, I just am concerned about the unintended consequences of this measure. I would also ask if I might submit some additional written comments in opposition to this measure," and the Chair "so ordered."

Representative Pendleton's written remarks are as follows:

"Mr. Speaker, I rise in opposition to House Bill 2697, House Draft 1. This bill would ensure that employees who are unemployed temporarily due to a labor dispute would not be disqualified from receiving unemployment benefits. These benefits would be given if the parties to the labor dispute have reached an impasse and, prior to a work stoppage, the striking workers offer to submit the dispute to a fact-finding process.

"Mr. Speaker, I oppose House Bill 2697, House Draft 1, for several reasons. First, as Paul Saito, Director of the Chamber of Commerce of Hawaii mentioned in his testimony in opposition to this bill, "this measure would fundamentally alter the balance of power in labor disputes." This bill would tip the balance by guaranteeing unemployment benefits to striking employees. Unemployment insurance laws were designed to help individuals who lose their jobs through no fault of their own. This bill would create an unfair advantage against employers in a labor struggle. If House Bill 2697, House Draft 1, were passed, striking workers would become eligible for unemployment insurance. It would then become possible for a group to "hold out" against what could be an acceptable settlement. In essence, they could sustain a strike using public funds. Employers on the other hand do not have the option to draw from public funds to replace losses.

"Second, this bill would also displace the authority and jurisdiction of federal law. In accordance with the Federal Labor Management Relations Act in 1947, in an unfair labor practice strike, the National Labor Relations Board is vested with statutory authority to determine whether an unfair labor practice has been committed. In contrast, in an economic strike federal law encourages good faith bargaining and mediation to resolve the conflict. This bill would defy federal authority and coerce employers to accept a negotiation process that is generally favorable to the unions. The employers' ability to seek other methods of resolution including the federal right to reach agreement through the Federal Mediation and Conciliation Service would be virtually eliminated.

"If this bill were to pass into law, it would have an enormous fiscal impact on both the private sector, through likely increases in employers' unemployment insurance tax rates, and the State budget. An individual strike could cost the State anywhere

from a few thousand to over a million dollars. For example, in testimony from Nelson B. Befitel, director of the State Department of Labor and Industrial Relations in opposition to this bill, he notes that "had this measure been in effect during the 2002 nurses' strike with 1,500 nurses and the 2003 bus drivers' strike with 1,600 bus drivers, the estimated payout would have been \$3-4.5 million plus for each strike." This is an excessive amount of money that could be used for a myriad of other options.

"Mr. Speaker, it is important for all of Hawaii's employees to be paid and treated fairly. However, House Bill 2697, House Draft 1, would give preferred status to Hawaii's workers at the expense of their employers and at the expense of the taxpayers. House Bill 2697, House Draft 1, in addition to its cost, would unfairly shift the balance of power in labor disputes, and would also displace the authority of the National Labor Relations Board. It is for these reasons that I strongly oppose House Bill 2697, House Draft 1.

"Thank you Mr. Speaker for the opportunity to speak in opposition to House Bill 2697, House Draft 1."

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

"Thank you, Mr. Speaker. In opposition. Reviewing the Committee Report of this bill, I did not recognize the bill in the terms that the Chair of the Labor Committee described it. He basically described this as an effort to avoid strikes. I think that this passage in the Committee Report makes it clear what this bill is about. We are talking about House Bill 2697.

"In recognition of the hardships these families endured during work stoppages, this bill will allow workers to obtain unemployment insurance benefits. This bill is about providing unemployment insurance to people who are on strike. And the consequence of that is to prolong labor disputes since the people on strike are bearing much less pain while they are on strike. And that would be the opposite of what the Labor Chair was suggesting.

"This is not a measure to head off strikes. It's a measure to prolong strikes. Thank you, Mr. Speaker."

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

Representative Finnegan rose and asked that the Clerk change her vote in support of the measure with reservations to a no vote, and the Chair "so ordered."

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

At 1:16 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 1:19 o'clock p.m.

Representative Leong 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. 2697, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LABOR," passed Second Reading and was referred to the Committee on Finance with Representatives Blundell, Ching,

Finnegan, Fox, Jernigan, Leong, Meyer, Moses, Ontai, Pendleton, Stonebraker and Thielen voting no.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 317-04) recommending that H.B. No. 2699, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2699, 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:

"Thank you, Mr. Speaker. I rise in opposition to 317. Mr. Speaker, sometimes an employer has to curtail some of his work for various reasons: money, supplies, whatever it is. But with this measure, it makes it difficult to deny unemployment compensation to striking workers even though they don't meet the criteria that we currently have established. And it makes the employer come up with proof to overcome the presumption that the employee may be entitled. And the employer then has to come up with clear and convincing evidence for the reason that he has curtailed his work. Thank you."

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

"I would just like to register a no vote and reference the comments I made on the previous measure," and the Chair "so ordered."

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

"Thank you. A no vote. As this seems to be a very similar measure to the preceding one, helping people stay on strike. Thank you."

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

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

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

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

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

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

"In strong support. I don't think I'm going to be changing any minds this afternoon. But I just wanted to express to you that this bill is basically a bill that would assist the parties in resolving their disputes. And really gets to the nut of many of these issues that we are talking about today of who and what and when and how we determine substantial curtailment of a

business enterprise which is the real 'lynch pin' of the discussion regarding striking workers, arbitration with employers, and the awarding of unemployment insurance benefits. So with that, I just reiterate again, my strong support. 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. 2699, HD 1, entitled: "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT BENEFITS," passed Second Reading and was referred to the Committee on Finance with Representatives Blundell, Ching, Finnegan, Fox, Jernigan, Meyer, Moses, Ontai, Pendleton and Stonebraker voting no.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 318-04) recommending that H.B. No. 1769, pass Second Reading and be referred to the Committee on Judiciary.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1769 pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. Again I rise in opposition. This is a measure that has a non-compete clause for the broadcast industry. It makes it unlawful for the employer to include the non-compete clause in the contract. And yet in almost all other businesses, they are allowed to put in a non-compete clause.

"My belief is the employee when he signs that contract knows full and well that that clause in the contract. He always has the choice not to sign. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I rise in opposition to this measure. Mr. Speaker, I want to preface my remarks by saying that I enjoy watching television news and appreciate them bringing news to us by way of our televisions, and I have no bad feelings against these particular individuals.

"I want to read briefly who the people opposing and supporting this measure are. Our own Standing Committee Report, Mr. Speaker, says that the Hawaii Government Employees, International Brotherhood of Electrical Workers, Radcliffe and Associates, Hawaii State AFL-CIO, Screen Actors Guild of Hawaii, American Federation of Musicians-Hawaii Local 677, and concerned citizens testified in support of this measure. And on the other hand, you had Hearst-Argyle Television, Clear Channel Communications, Emmis Communications, Raycom Media in opposition. My point here is basically you have employers versus employees.

"My position, Mr. Speaker, has always been freedom of contract. That we live in a world where individuals can negotiate for work. And they can work among themselves. We live in a world where we're not talking about child labor here. So these are all talented and successful and very articulate adults who are sophisticated and well-trained. And I just don't see why in this particular profession. Perhaps if we saw across-the-board that there were a whole slew of professions where employers were saying, 'take it or leave it' and we saw large unemployment, large scale people out of jobs because employers were being unreasonable, then we might want to step into the breach. But here, we have one narrow profession where they are saying, 'We want the State to come in and tilt the balance towards us. We want the State to come in and

modify freedom of contract to say protect us from these kinds of clauses.' And I'm just not persuaded, Mr. Speaker, that this particular group is unable to articulate persuasively for themselves the kinds of contracts that they would like to have.

"I think basically you have people who have come to the Legislature saying we would like for you to side with us in these employee versus employer type contractual situations. And so I want to vote no because I just don't see the need for us to involve ourselves in this situation and to disrupt the freedom of contract. Thank you."

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

"Mr. Speaker, I would like to declare a potential conflict. As a former broadcaster, I still have lots of contacts in the news business," and the Chair ruled, "no conflict."

Representative Ontai 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:

"Thank you, Mr. Speaker. I will be voting no on this measure. I believe that this is another example of legislations which demonstrates Hawaii's anti-business attitude of passing laws that are anti-business. This is very common for businesses to include these kinds clauses and why we would pick one industry and exempt them. It's really hard for me to understand. And I would hope that we would stop passing bills like this. This is not a group of people that need some kind of unusual protection. Thank you, Mr. Speaker."

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

"Mr. Speaker, I rise briefly in support of this measure. One of the reasons, one of the policy issues at stake in addition to those policy issues that have been articulated by opponents of this bill, is that there are only four television stations to work for. So a non-compete agreement is fair and enforceable if you're basically saying if there is diversity in the marketplace. But these individuals, if they terminate employment with one of the media outlets, they have no options in the State of Hawaii. And so either they switch careers or they move or they wait for the expiration of the non-compete agreement. And that's why this is a unique situation. And that's why I support this measure. Thank you."

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

Representative Pendleton rose to respond, stating:

"Mr. Speaker, just a few more words in opposition. I listened very carefully to the gentlemen from Makiki's remarks and I agree that those are the numbers of stations here but I'm not sure how that distinguishes us from other jurisdictions. For example, if you watch television in Boston or Los Angeles, you still just have the ABC, CBS, NBC affiliates and maybe a few local cable stations. So it's not like we have a dramatically restricted market versus other jurisdictions on the mainland even though the television viewers may number the millions, you still have a fairly select number. So I'm not sure how that data distinguishes us from say, any other news market as though they were dramatically more jobs in other areas or more local news stations. I'm not sure that I find those facts persuasive. Thank you."

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

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

"Thank you, Mr. Speaker. I rise in opposition. I think this is unnecessary to pass restrictive legislation to impose rules on a group of individuals quite capable of negotiating mutually beneficial agreements on their own. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In strong support. Mr. Speaker, I think it's reasonable for broadcast employees to be protected from large broadcast employers that can use contract provisions that would virtually hold these employees as indentured servants."

"We're a limited market, Mr. Speaker, and an island geography. By being able to control employment through these non-compete clauses, broadcast employers also hold down the ability of employees to negotiate higher compensation. These non-compete clauses remove all competition from the marketplace and gives broadcast employers the power of a monopoly in industry. Thank you."

Representative Thielen 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, thank you. Strong support of this bill. I think the comments made by previous speakers are well-taken. I think this is a balancing of policy issues."

"Just a couple of points I think we need to keep in mind. We're here to set public policy. And we've already done in many other ways, establish policies regarding freedom of contract, and the need for oversight on certain types of provisions in our contracts, door to door sales, car sales, financial transactions, and real property contracts. They all are subject to certain restrictions, what can and cannot be done within the four corners of the document. But let me really bring this home to a lot of people."

"Could you imagine, Mr. Speaker, that you are employed at Foodland and your contract with Foodland, prohibits you from quitting Foodland or being fired from Foodland from working next door to Safeway. I don't think anyone would think that's fair. Similarly, if you were working at McDonald's. And you are locked into a contract that prohibited you from working at a Burger King for the next 6 to 12 months. I think no one here would say that's fair or reasonable."

"Mr. Speaker, we're not talking about the Joe Moore's of the world here. We're talking about the local folks who are trying to break into this very limited market in a limited geographic area in Hawaii. There are only four stations here, which are controlled by, when I say foreign, I mean out-of-state interests dictating the terms of their contracts, their compensation, their whole programming. These are not people who have privy to any of the trade secrets of the organizations. They are essentially, Mr. Speaker, and I don't mean any disparaging comments to these individuals, but they are basically 'talking heads'."

"Mr. Speaker, one of the things that really surprised me and irritated me to a degree was when one of the several station

managers came to the hearing. And said that there is no problem. Because if there was a problem, you would see some of these affected members here to testify. Well, Mr. Speaker, I had a chance to review some of the existing contracts that may be in use today with these broadcast journalist. And Mr. Speaker, by their very appearance at a public hearing, perhaps testifying on this bill, there would be grounds for termination. And I don't think that's right, Mr. Speaker. When you think about broadcast and broadcast journalism as being so important to First Amendment speech rights, I just find this ironic if not strange, that we would have these kinds of restrictions on those who advance those interests of our community. Mr. Speaker, these are the reasons we are moving these kind of bills forward. Thank you."

The Chair recognized Representative Pendleton, stating:

"Representative Pendleton, this is your third time."

Representative Pendleton rose to respond, stating:

"This is my third time. I will keep it brief and this is the last time I am going to speak."

Representative B. Oshiro rose to a point of order, stating:

"Point of order, Mr. Speaker. I don't believe we allow anyone speak more than twice."

Speaker Say: "You are right."

Representative Pendleton: "Mr. Speaker, in the past people have spoken three times."

Representative B. Oshiro: "Point of order, Mr. Speaker. We don't want to be setting a new precedent if indeed it's happened in the past."

Speaker Say: "Representative Pendleton, I think you have spoken twice and the Chair will not recognize you at this point. Representative Fox."

Representative Fox rose and stated:

"I would be happy to yield my time."

Speaker Say: "No. He's already spoken and gotten up twice. And that's the rules of this House. Representative Pendleton for what purpose do you rise?"

Representative Pendleton: "Personal privilege, Mr. Speaker. I've tried to keep my remarks brief and statesmen-like. And I've not tried to disparage any of the Members. And I've not tried to go on and on. I think in the two times that I've stood up, I still probably have a balance of time left. I just like to ..."

Representative Saiki rose to a point of order, stating:

"Point of order. Mr. Speaker, Rule 50.1 of the House Rules states that 'No member shall speak more than twice in the House Session.'"

Speaker Say: "Correct, but Representative Pendleton is rising on point of personal privilege where he's sharing with this House his point of privilege, which I'm allowing him to continue. But there is no reference to the bill before us. So please proceed, Representative Pendleton."

Representative Pendleton: "Mr. Speaker, if I could just wrap up my point of personal privilege. I just assumed that we were allowed to speak three times because in my eight years here, I've never asked to speak three times, but I've known a number

people who have and there wasn't that much a concern from the Body."

Speaker Say: "Your point is well taken. And if the Chair has been very generous in the past, at this point, we are following the rules of this House. And for all of you, you just have to remember that this is Second Reading and you will get an opportunity in the Judiciary Committee where it's being referred to for a public hearing, if there is a public hearing."

At 1:34 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 1:36 o'clock p.m.

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

"Thank you, Mr. Speaker. I was trying to yield my time and I was not able to do so. I am speaking in favor with grave reservations.

"My colleague from Enchanted Lake pointed out to me a very valid point, and that is in this area of broadcast journalism, the companies are involved in creating personas. They create personalities. They invest time and money in building up the personal image of the people who work for them. This is not the same as a Safeway clerk. There's no personal investment that Safeway puts in their personas that costs them a lot of money.

"These personas are created by the stations. If they are suddenly in the position to go to work for the other station, instead of being an asset to the station, they become a liability to the station. So you can understand why in dealing with the intelligent people who sign these contracts, the stations would want to have them sign away their ability to take the persona that the station builds to a competitor and do damage to the station that trained and finance them. Thank you, Mr. Speaker."

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

Representative Finnegan rose in support of the measure with reservations, and asked that the remarks of Representative Fox 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. 1769, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT CONTRACTS FOR BROADCAST INDUSTRY EMPLOYEES," passed Second Reading and was referred to the Committee on Judiciary with Representatives Blundell, Evans, Meyer, Moses, Ontai, Pendleton and Stonebraker voting no.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 319-04) recommending that H.B. No. 2375, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2375, entitled: "A BILL FOR AN ACT RELATING TO SOLID WASTE CONTROL," passed Second Reading and was referred to the Committee on Judiciary.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 320-04) recommending that H.B. No. 468, HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 468, 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."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 468, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY," passed Second Reading and was referred to the Committee on Finance.

Representatives Morita and Kanoho, for the Committee on Energy and Environmental Protection and the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 321-04) recommending that H.B. No. 2924, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2924, HD 1, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Lee.

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

"Mr. Speaker, I have a potential conflict of interest. I'm a realtor and I've done some development in the past, and hope to do some in the future," and the Chair ruled, "no conflict."

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

"Thank you very much. I've reviewed this bill and this bill has some merit, of course. And when you increase the fines ... I'm speaking with reservations. I'm sorry, Mr. Speaker. I am for the measure, with reservations.

"And as I was stating, I've seen that there are some sections that are very good in this bill, when you increase the fine for water pollution. And that's well as it should be.

"However, I have real major concern with item number 3 in the Committee Report, where we allow for citizen suits relating to pollution. This can lead to a lot of potentially frivolous suits, and it can delay construction *vis-à-vis* the price of the homes. The question of water pollution, what constitutes water pollution. That can be a very subjective item, Mr. Speaker. And to allow citizens to sue could even provide for greater problems. So with this, I have strong reservations and I hope that the next Committee will look upon this issue. Thank you very much, Mr. Speaker."

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

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

"Mr. Speaker, I might have a conflict. I have a company that processes and sells soil, and also I'm a owner of a farm," and the Chair ruled, "no conflict."

Representative Jernigan continued, stating:

"Thank you, Mr. Speaker. One of the things in this bill that is concerning me is the ... I am in opposition. This still doesn't address conflicts for fundamental farming practices such as cultivating and tilling land that may inadvertently lead to water pollution or muddy water. I think we need to address that. Thank you."

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

"I would like to state a conflict. My father is Muddy Waters."

The Chair responded, stating:

"That's tied to a private benefit, right? No conflict. Please proceed."

Representative Waters continued, stating:

"Thank you. Hawaii's coastal waters, beaches and coral reefs ... In support. Thank you. ... and marine life that threaten these areas are amongst the world's most beautiful. This bill seeks to protect that and preserve that. Who here isn't for crystal clear waters, beautiful blue oceans, and healthy coral reefs? I think we all are."

"Just to address some of the concerns. This bill, currently under federal law, it allows all citizens, you can sue a developer if you wanted to. But in the Committee Report, I would just like to point out that this provides citizen suits relating to water pollution. It may not be brought if the Director of Department of Health is conducting ..."

Representative Pendleton rose, stating:

"Mr. Speaker. Rise in the point of personal privilege. Can we get the gentleman's microphone repaired or fixed."

The Chair responded, stating:

"Representative Morita, would you allow Representative Waters to use your microphone."

Representative Waters continued, stating:

"If the Director of the Department of Health has proceeded and initiated an investigation, then it would prohibit suits. So hopefully that takes care of your concerns. Thank you."

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

"Thank you, Mr. Speaker. I will speak in opposition and would like to incorporate the remarks of the Speaker Emeritus as if they were my own," and the Chair "so ordered. (By reference only.)"

Representative Fox continued, stating:

"And I would like to say that this bill is going to provide additional work for lawyers. And the *Wall Street Journal* about 10 years ago did a study of the impact of law on business practices in the United States and found out that for each new lawyer that is provided into the workforce of the United States,

the gross national product drops by \$1 million. That's the danger I see with this bill. Thank you."

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

"Mr. Speaker, I rise in strong support. Thank you, Mr. Speaker. I rise in support because I think what we're all losing focus on is the fact that when we took office we all swore to uphold the provisions of the Constitution. Our State Constitution specifically, Article XVII, Section 9 says, 'Environmental Rights. Each person has a right to a clean and healthy environment as defined by laws relating to environmental quality including control of pollution and conservation, protection and enhancement of natural resources.' Now here's the most important part. It says, 'Any person may enforce this right against any party, public or private, through appropriate legal proceedings, subject to reasonable limitations and regulations as provided by law.'"

"So there is a constitutional right for citizens to have suits whenever they deem there to be pollution. The only job of the Legislature is to control and limit that right by regulation. It's a constitutional right and although people may disagree with the philosophy of it, if you do, then you need to change the Constitution. Those arguments about whether you agree that we should have citizen suits or not, do not matter because the Constitution has already stated that for us. Thank you."

Representative Souki rose to respond, stating:

"Rebuttal. It's within the Constitution and I believe everyone has a right to sue. But I don't believe it need to be in a statue, Mr. Speaker."

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

"Opposition, Mr. Speaker. I would just like to say that some farmers I know have called me and said that this particular bill, if it should pass might have some very adverse affects on them. And for those reasons, I'm in opposition."

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

"I rise in support of this measure. I just want to point out on page 4, especially Section C, what this bill addresses is when a lawsuit can come in and under what conditions. So I think that may explain some things to the Representative from Waiehu."

"And also there are provisions to eliminate people who are using all reasonable precautions so that sediment doesn't enter into State waters."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2924, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CLEAN WATER," passed Second Reading and was referred to the Committee on Judiciary with Representatives Bukoski, Fox, Jernigan and Meyer voting no.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 322-04) recommending that H.B. No. 2462, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2462, HD 1, entitled: "A BILL FOR

AN ACT RELATING TO PUBLIC EMPLOYEES," passed Second Reading and was referred to the Committee on Finance.

Representative Takai, for the Committee on Higher Education presented a report (Stand. Com. Rep. No. 323-04) recommending that H.B. No. 2044, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative Saiki, 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 SMALL BUSINESS DEVELOPMENT," was referred to the Committee on Finance.

Representative Takai, for the Committee on Higher Education presented a report (Stand. Com. Rep. No. 324-04) recommending that H.B. No. 2547, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2547, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"Thank you. I would like a ruling on a potential conflict of interest. My wife works for the UH Foundation," and the Chair ruled, "no conflict."

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

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

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

"Thank you, Mr. Speaker. A no vote with a few remarks please. Thank you. Mr. Speaker, the Foundation is overseen by a large and diverse Board of Trustees. The Foundation has annual financial audits by a nationally recognized accounting firm and it's subject to the enforcement powers of the State Attorney General, plus the Internal Revenue Service. Its principal asset is its private status, and a protection such a status afford those who seek to support the Foundation and ultimately the University and the Foundation's business strategies. This bill might jeopardize this important asset.

"I'm a graduate of UH, Mr. Speaker. And I noticed that my University came in and testified in opposition to this measure. I think that people, Members, should take a very careful look at this and recognize the deleterious effect that passing it could have. Thank you."

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

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

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

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

"Mr. Speaker, I would like to speak on this measure in support. Thank you, Mr. Speaker. Last year, this Legislature passed Senate Bill 576. Basically that bill did the same thing that this bill in front of us, House Bill 2547, does. The Governor vetoed that bill because the requirements that we placed on the Auditor to go to the Foundation were too broad. We've addressed those concerns.

"In testimony to the Committee, the UH Foundation asked us to hold this measure because progress was being made between them and the Legislative Auditor. The Legislative Auditor came in with testimony subsequent to that hearing that basically says that she wants this bill to move forward because progress is not occurring as good as the UH Foundation had stated in testimony.

"I would encourage the Members to support this measure because, for those of you who don't understand this measure, this measure is about \$3 million that the University of Hawaii gives to the UH Foundation each and every year for the purposes in Section 2: to generate private donations, to promote alumni activities, and to enable the University Foundation to maintain stewardship over State money. All the State Auditor is asking is to look at how that \$3 million of State funds is being used by the Foundation. That's all she's asking for. And I think it's appropriate for her to ask that and it's appropriate for us to support her in her efforts. Thank you, Mr. Speaker."

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

"Yes, Mr. Speaker. I wish like to speak with strong, strong reservations on this measure. I believe the Legislative Auditor has enough to deal with, without doing further oversight on a Foundation that had been doing very well all this past years. So I see no reason for this bill to provide for additional oversight, especially by the Legislative Auditor. Thank you."

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

Representative Takai rose to respond, stating:

"Mr. Speaker, one more time. In support. I just wanted to mention one thing. Please look at Section 2 of this bill. Section 2 proposes to amend the purposes of the money from the University going to the Foundation. If we do not pass this bill as I said last year, the University cannot use this money for alumni activities. And cannot use the money for some of the things they are already using it for.

"We were told last year that the University is giving the Foundation \$2 million in this contract. Today we find its not only \$2 million, it's also \$350,000 for alumni activities. In addition to that, it's another \$600,000 for half of the Development Officers' salaries. We're talking about \$3 million going to the Foundation from the University of Hawaii, of which only, I believe \$2 million is applicable and appropriate by law. If we do not pass this, one could argue that what the University is doing right now is illegal. 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. 2547, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Second Reading and was referred to the Committee on Finance with Representatives

Ching, Finnegan, Halford, Leong, Meyer, Schatz and Thielen, voting no.

Representative Chang, for the Committee on Tourism and Culture presented a report (Stand. Com. Rep. No. 325-04) recommending that H.B. No. 2781, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2781, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INFORMATION PRACTICES," passed Second Reading and was referred to the Committee on Judiciary.

LATE INTRODUCTION

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

Representative Luke: "Thank you, Mr. Speaker. We wanted to welcome the various students who just joined us. We're about to finish session but you can join us, come back and see us at 6 p.m. If you can all rise and to be recognized by the House."

ANNOUNCEMENT

Representative Thielen: "Yes, Mr. Speaker. I just wanted to notify the students, there's going to be a very interesting decision making hearing involving renewable energy in room 325 as soon as we leave here."

At 1:53 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 6:38 o'clock p.m.

At this time the Chair announced:

"Members, at this time would you please refer to your Supplemental Calendar Number 1. And for all of the Members of this House, there will also be another Supplemental Calendar, which would be Number 2, this evening."

SUPPLEMENTAL CALENDAR #1 STANDING COMMITTEE REPORTS

The Chair then stated:

"Before I begin the discussion, the Minority Leader made a request that after Stand. Com. Report 400, we will go into recess to address the Supplemental Calendar Number 2 and the bills that will be coming back on the floor."

Representative Ito, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 326-04) recommending that H.B. No. 1772, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1772 pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative B. Oshiro rose in opposition to 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 opposition to this measure as the Halawa Correctional Facility is within the 33rd district. While the "not-in-my-backyard" concerns will most always exist for any correctional facility in any community, I do not believe this bill has had sufficient comment and review from the affected community and more public participation is necessary to ensure proper education and ultimate acceptance by the residents.

"Based on previous discussions with the prior Director of Public Safety, I was advised of a previous proposal by a private developer to expand the Halawa Correctional Facility to relocate approximately 1,000 inmates currently housed at the Oahu Community Correctional Center ("OCCC"). I was further advised that a reason for this relocation is that OCCC has limited ability to properly contain inmates, making escapes more prevalent because it is located in an urban center of Kalihi, inconsistent with the surrounding community. Moreover, to avoid the potential of court action for overcrowding at OCCC, the administration is supporting this proposed expansion at Halawa, and anticipates that the Request for Proposal process will be completed by this summer.

"There are reasons why Halawa may be an adequate location – there has been a low rate of escapes since Halawa first opened in 1998, as well as the fact that Halawa is one of the more remote areas within reasonable proximity to urban Honolulu, for transportation to the courts. However, I believe that there are many, many alternative locations that are just as viable, and these need to be explored.

"Halawa already has a prison, a quarry, a freeway, a quarantine station and a full military facility. I believe each area must bear its share of burdens in our modern-day society and it is not fair for my district to absorb so much more than others. It is not fair that this issue is not allowed more exploration merely because of the "not-in-my-back-yard" mentality.

"Consequently, I oppose this measure."

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

Representative Takai asked that the written remarks of Representative B. Oshiro be entered in the Journal as his own. (By reference only.)

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1772, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONAL FACILITIES," passed Second Reading and was referred to the Committee on Finance with Representatives B. Oshiro and Takai voting no, and with Representative Pendleton being excused.

Representative Ito, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 327-04) recommending that H.B. No. 2076, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2076, entitled: "A BILL FOR AN ACT RELATING TO LAW ENFORCEMENT," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Ito, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 328-04) recommending that H.B. No. 2501, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2501, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR THE DEPARTMENT OF PUBLIC SAFETY," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Ito, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 329-04) recommending that H.B. No. 2823, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2823, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS AND MAKING AN APPROPRIATION FOR THE MAINTENANCE OF THE WEST HAWAII VETERANS CEMETERY IN THE COUNTY OF HAWAII," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Ito, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 330-04) recommending that H.B. No. 2255, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2255, entitled: "A BILL FOR AN ACT RELATING TO SEXUAL ASSAULT," passed Second Reading and was referred to the Committee on Judiciary, with Representative Pendleton being excused.

Representative Ito, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 331-04) recommending that H.B. No. 2438, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2438, entitled: "A BILL FOR AN ACT RELATING TO CIVIL DEFENSE," passed Second Reading and was referred to the Committee on Judiciary, with Representative Pendleton being excused.

Representative Ito, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 332-04) recommending that H.B. No. 2684, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2684, entitled: "A BILL FOR AN ACT RELATING TO ABUSE OF FAMILY OR HOUSEHOLD MEMBERS," passed Second Reading and was referred to the Committee on Judiciary, with Representative Pendleton being excused.

Representative Ito, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 333-04) recommending that H.B. No. 2805, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2805, entitled: "A BILL FOR AN ACT RELATING TO THE CRIME VICTIM COMPENSATION FEE," passed Second Reading and was referred to the Committee on Judiciary, with Representative Pendleton being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 334-04) recommending that H.B. No. 2091, pass Second Reading and be referred to the Committee on Judiciary and the Committee on Consumer Protection and Commerce.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2091, entitled: "A BILL FOR AN ACT RELATING TO PEER REVIEW," passed Second Reading and was referred to the Committee on Judiciary and the Committee on Consumer Protection and Commerce, with Representative Pendleton being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 335-04) recommending that H.B. No. 2130, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce and the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2130, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL RECORDS," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce and the Committee on Judiciary, with Representative Pendleton being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 336-04) recommending that H.B. No. 2798, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2798 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."

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. 2798, 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 Representative Pendleton being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 337-04) recommending that H.B. No. 558, HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 558, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 338-04) 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 Saiki, 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 EMERGENCY MEDICAL SERVICES," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 339-04) recommending that H.B. No. 2100, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2100, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INVOLUNTARY PSYCHIATRIC TREATMENT," passed Second Reading and was referred to the Committee on Judiciary, with Representative Pendleton being excused.

Representative Schatz, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 340-04) recommending that H.B. No. 2192, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, 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 ADMINISTRATIVE PROCEDURE," passed Second Reading and was referred to the Committee on Judiciary, with Representative Pendleton being excused.

Representative Schatz, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 341-04) recommending that H.B. No. 2634, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2634, entitled: "A BILL FOR AN ACT RELATING TO SECURITIES FOR THE PROTECTION OF PUBLIC FUNDS," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce, with Representative Pendleton being excused.

Representative Schatz, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 342-04) recommending that H.B. No. 2391, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2391, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII STRATEGIC DEVELOPMENT CORPORATION," passed Second Reading

and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Schatz, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 343-04) recommending that H.B. No. 2034, HD 1, as amended in HD 2, be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2034, HD 2, be referred to the Committee on Finance, seconded by Representative Lee.

Representative Abinsay 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 Bukoski 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."

Representative Tamayo rose and asked that the Clerk record an aye vote with reservations for her, 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."

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

"In opposition. I'm concerned about the concerns of the University of Hawaii."

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

Representative Sonson 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. 2034, HD 2, entitled: "A BILL FOR AN ACT RELATING TO BIOPROSPECTING," was referred to the Committee on Finance with Representative Fox voting no, and with Representative Pendleton being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 344-04) recommending that H.B. No. 2523, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, 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 PASSENGER FACILITY CHARGES," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 345-04) recommending that H.B. No. 2956, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2956 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:

"I would like to register a no vote on 345. That's the bill that would take a portion of the State gasoline tax revenues paid to Honolulu to pay for a fixed guideway mass transit system."

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

"Mr. Speaker, I was rising on a different one but while we're on it, 345. I have no objection to using part of the State's revenue to help with the mass transit. I'm in support."

"I have one concern though and that is it will reduce the State's funding, the monies that we receive, the revenues. So we would have to make up for that somewhere else in balancing the budget. And also it probably isn't enough to make much of a damage as far as making a mass transit system, although, over a number of years, it would create a fund that could be used for that. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I also would like to cast a no vote on it for the same reasons my colleague from the Windward side voted no."

Representative Jernigan 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. 2956, entitled: "A BILL FOR AN ACT RELATING TO MASS TRANSIT," passed Second Reading and was referred to the Committee on Finance with Representatives Jernigan, Meyer and Thielen voting no, and with Representative Pendleton being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 346-04) recommending that H.B. No. 2291, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2291, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 347-04) recommending that H.B. No. 2321, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2321, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2321, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 348-04) recommending that H.B. No. 2290, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2290, entitled: "A BILL FOR AN ACT RELATING TO DRIVER LICENSING," passed Second Reading and was referred to the Committee on Judiciary, with Representative Pendleton being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 349-04) recommending that H.B. No. 2885, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2885, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES," passed Second Reading and was referred to the Committee on Judiciary, with Representative Pendleton being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 350-04) recommending that H.B. No. 2769, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2769, HD 1, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. Rising in support with some reservations again. This has to do with parking for persons with disabilities, and the volunteer patrol folks that go around and can give citations, etcetera. This redefines them as law enforcement officers so they can make arrest and things of that nature. But I fear that there are other places within the HRS where law enforcement officer means people who carry guns and can use bodily force, and can also use deadly force. So I think that we might be inadvertently affecting other portions of the HRS and we may need to look at a definition again. 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. 2769, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PARKING FOR PERSONS WITH DISABILITIES," passed Second Reading and was referred to the Committee on Judiciary, with Representative Pendleton being excused.

Representative Abinsay, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 351-04) recommending that H.B. No. 2849, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2849, entitled: "A BILL FOR AN

ACT MAKING AN APPROPRIATION FOR ORGANIC AGRICULTURE," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Abinsay, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 352-04) recommending that H.B. No. 2799, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2799, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENTS PERTAINING TO AGRICULTURE," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representatives Abinsay and Kanoho, for the Committee on Agriculture and the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 353-04) recommending that H.B. No. 2949, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2949, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE IRRIGATION SYSTEMS," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representatives Morita and Abinsay, for the Committee on Energy and Environmental Protection and the Committee on Agriculture presented a report (Stand. Com. Rep. No. 354-04) recommending that H.B. No. 1830, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1830, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE CONTROL OF INVASIVE SPECIES," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representatives Schatz, Chang and Morita, for the Committee on Economic Development and Business Concerns and the Committee on Tourism and Culture and the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 355-04) recommending that H.B. No. 2190, as amended in HD 1, pass Second Reading and be referred to the Committee on Transportation.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2190, HD 1, pass Second Reading and be referred to the Committee on Transportation, seconded by Representative Lee.

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

"On 355. I would register my opposition to this. I'm not totally clear on the issues involved, but I see some concerns that I would like to reflect in a no vote."

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 Sonson 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. 2190, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL COMPLIANCE," passed Second Reading and was referred to the Committee on Transportation, with Representatives Fox, Meyer and Sonson voting no, and Representative Pendleton being excused.

Representative Ito, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 356-04) recommending that H.B. No. 2439, pass Second Reading and be referred to the Committee on Water, Land Use and Hawaiian Affairs.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2439, entitled: "A BILL FOR AN ACT RELATING TO CIVIL DEFENSE SIRENS," passed Second Reading and was referred to the Committee on Water, Land Use and Hawaiian Affairs, with Representative Pendleton being excused.

Representative Ito, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 357-04) recommending that H.B. No. 2440, pass Second Reading and be referred to the Committee on Judiciary.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2440 pass Second Reading and be referred to the Committee on Judiciary, 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. 2440, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT RECORDS," passed Second Reading and was referred to the Committee on Judiciary, with Representative Pendleton being excused.

Representative Ito, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 358-04) recommending that H.B. No. 2278, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2278 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 with reservations, stating:

"Thank you, Mr. Speaker. Again, I have reservations. It's commendable that we are trying to give benefits to our deployed military. What this measure does is it exempts all income for those who are put on active duty. For our National Guard that are activated, put on active duty, and they are put in harm's way. The only problem I have with it is that it exempts all income. All income. Not just their military pay. Not just their federal pay. Any kind of income they may have: stocks, bonds, rentals, whatever. If that is the intent, so be it. But I just want to point out that. The way it reads, it is all income from all sources. Thank you, Mr. Speaker."

Representative Sonson rose 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.)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2278, entitled: "A BILL FOR AN ACT RELATING TO STATE MILITARY FORCES," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representatives Ito and M. Oshiro, for the Committee on Public Safety and Military Affairs and the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 359-04) recommending that H.B. No. 2444, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2444, entitled: "A BILL FOR AN ACT RELATING TO THE MILITIA," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton 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. 360-04) recommending that H.B. No. 2115, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2115, entitled: "A BILL FOR AN ACT RELATING TO QUALITY ASSURANCE," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton 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. 361-04) recommending that H.B. No. 2094, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, 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 DENTISTS," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 362-04) recommending that H.B. No. 2083, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2083, HD 1, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS AND MAKING AN APPROPRIATION FOR THE KULAMALU LONG-TERM CARE FACILITY AND ADULT DAY CARE FACILITY IN KULA, MAUI," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 363-04) recommending that H.B. No. 1188, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1188, entitled: "A BILL FOR AN ACT RELATING TO MENTAL HEALTH," passed Second Reading and was referred to the Committee on Judiciary, with Representative Pendleton being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 364-04) recommending that H.B. No. 2468, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, 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 MEDICAL RECORDS," passed Second Reading and was referred to the Committee on Judiciary, with Representative Pendleton being excused.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 365-04) recommending that H.B. No. 2713, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2713, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SOCIAL SECURITY FOR PUBLIC EMPLOYEES," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 366-04) recommending that H.B. No. 2491, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2491, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Schatz, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 367-04) recommending that H.B. No. 1953, as amended in HD 1, pass Second Reading and be referred to the Committee on Water, Land Use and Hawaiian Affairs.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1953, HD 1, pass Second Reading and be referred to the Committee on Water, Land Use and Hawaiian Affairs, 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 Jernigan rose to speak in opposition to the measure, stating:

"A no vote please. In opposition. I had some concerns, Mr. Speaker, about the Natural Energy Lab of Hawaii on the Kona Coast being affected by this because they have large suction tubes going down for deep-sea water that would be affected. Thank you."

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

"Thank you, Mr. Speaker. In opposition to 367. I believe that sea walls and groins really do interfere with the natural movement of sand and shorelines, and are major concern for us. But I think this is a bit of a 'sledge-hammer' approach. Just simply saying no to them. And I know that very intelligent people are working hard on this problem and I wonder if we should be stepping into this with sort of a flat out no. And so for that reason, I'm opposed to the bill."

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

"I rise in opposition to this. My understanding with this bill is if it passes through, there has been a practice that land owners on Kaanapali Beach, which is a beach that washes away and comes back seasonally, had been allowed to put boulders down when the beach has reached their property, to stop the erosion of their land. And then when the beach comes back, they have to take those boulders out again. So it does protect their land and it really does not affect the beach because the beach does come back. So for those reasons I am opposed to this bill, which would stop that practice. Thank you, Mr. Speaker."

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

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

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

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

"Thank you, Mr. Speaker. I am going to vote no on this bill. I feel like this is really a drastic measure. A total ban on sea walls would cause a lot of people to lose their properties entirely."

"Right now, people can get a conditional use permit. They can show that they are going to build well-engineered walls. I know of a number of properties of constituents of mine in Laie that are doing that right now. If this law were in effect, they would simply be able to do nothing to save their property. The hundred-foot setback almost amounts to a taking of value. There might be a dramatic drop in property values because of the square footage of the shoreline property that would be reduced and leaving such a little amount property to develop. So I think that I understand why a lot of the provisions are in here or we're looking to solve a problem but this simply goes way too far. Thank you."

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

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

"Mr. Speaker, very briefly in support. I just want to make a couple of points. First of all, it is drastic because what's happening to our shorelines is drastic. We've lost more than 20% of our shoreline. We've lost more than 20% of our shoreline in the last 50 years. So what we're currently doing is not working. That's why this bill is drastic."

"Second of all, this is adopting exactly what County of Maui is doing."

"Third, this does exempt public utilities as well as the Department of Transportation and the Department of Land and Natural Resources. Thank you very much."

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

Representative Fox rose to respond, stating:

"Thank you. Just briefly, the problems over the last 50 years are the reasons that this is such a cause of concern now. The facts are established. We are losing our shoreline. And it does have to do with the building of sea walls and groins. But why, when we are at the stage where we actually understand the problem or are highly conscious of it, and everybody's focused on it, where we come in and say, 'Boom, no walls at all.' It's like trying to capitalize politically on a problem that is now well-discovered, although 50 years ago was far from being discovered. Thank you, Mr. Speaker"

Representative Schatz rose to a point of order, stating:

"Mr. Speaker, point of order. The current speaker is impugning the motives of either the introducer or some supporters of the bill and I think it's inappropriate."

The Chair responded, stating:

"Representative Schatz, your point is well taken. Representative Fox, would you like to proceed or are you finished? Finished? Okay. Any further discussion on Stand. Com. Report. 367?"

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. 1953, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COASTAL ZONE MANAGEMENT," passed Second Reading and was referred to the Committee on Water, Land Use and Hawaiian Affairs with Representatives Blundell, Fox, Jernigan, Meyer and Ontai voting no, and with Representative Pendleton being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 368-04) recommending that H.B. No. 2294, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2294 pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. With reservations. This increases costs, increases our fines. And also there's no fiscal note here. The fiscal impact has yet to be determined."

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

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

"Thank you, Mr. Speaker. In opposition. We should not be enhancing the use of traffic fines to finance the State. This is a revenue stream that should be turned over to the counties. They do most of the enforcing. And we get a lot more enforcement out of the counties if the result of the fines were to end up with them. I realize that this discussion is about the adjudicated, not the unadjudicated portion. But I just think it's a bad idea for us to camp more revenue stream on the backs of the tickets written by county law enforcement authorities. Thank you."

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

"A no vote for the same reasons."

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

"Thank you. Reservations, please. Same reasons as mentioned by the Republican Leader."

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. 2294, entitled: "A BILL FOR AN ACT RELATING TO FEES FOR ADMINISTRATIVE COSTS IN TRAFFIC CASES," passed Second Reading and was referred to the Committee on Finance with Representatives Fox, Meyer and Stonebraker voting no, and with Representative Pendleton being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 369-04) recommending that H.B. No. 2937, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2937 pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

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

"Thank you, Mr. Speaker. In support. The reason we had the automatic approval was because the Boards and Commissions weren't working. And they weren't working because when we get to contentious issues, the members wouldn't show up. And so the public was denied any decision at all. This is tied to another bill that's a single referral that I would hope would pass. And that's requiring members of Boards and Commissions to show up. And if they miss a couple, they're out.

"So we need to make the Boards and Commissions work. The public deserves to have decisions made by those Boards and Commissions. Thank you."

Representative Sonson 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. 2937, entitled: "A BILL FOR AN ACT RELATING TO PERMIT APPROVALS," passed Second Reading and was referred to the Committee on Finance with Representatives Fox, Jernigan and Meyer voting no, and with Representative Pendleton being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 370-04) recommending that H.B. No. 2976, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2976, entitled: "A BILL FOR AN ACT RELATING TO THE WEED AND SEED STRATEGY," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 371-04) recommending that H.B. No. 2295, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2295, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIONS ON DELINQUENT COURT-ORDERED PAYMENTS," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 372-04) recommending that H.B. No. 2399, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2399, HD 1, entitled: "A BILL FOR AN ACT PROPOSING AMENDMENTS TO ARTICLE VII OF THE CONSTITUTION OF THE STATE OF HAWAII," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 373-04) recommending that H.B. No. 2516, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2516, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAX WHOLESALE RATE," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 374-04) recommending that H.B. No. 2687, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2687, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SUMMONS AND CITATIONS," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 375-04) recommending that H.B. No. 1753, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1753, entitled: "A BILL FOR AN ACT RELATING TO SECURED TRANSACTIONS," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 376-04) recommending that H.B. No. 1071, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1071, HD 1, 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 Pendleton being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 377-04) recommending that H.B. No. 2172, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2172, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TELECOMMUNICATIONS," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 378-04) recommending that H.B. No. 2071, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2071, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII EMPLOYERS' MUTUAL INSURANCE COMPANY," was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 379-04) recommending that H.B. No. 2415, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2415, entitled: "A BILL FOR AN ACT RELATING TO THE PATIENTS' BILL OF RIGHTS AND RESPONSIBILITIES ACT," was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 380-04) recommending that H.B. No. 2482, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee

was adopted and H.B. No. 2482, entitled: "A BILL FOR AN ACT RELATING TO HOSPITAL AND PROFESSIONAL LIABILITY RISK FINANCING," was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 381-04) recommending that H.B. No. 2542, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2542, entitled: "A BILL FOR AN ACT RELATING TO ADULT RESIDENTIAL CARE HOMES," was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 382-04) recommending that H.B. No. 1816, HD 1, be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1816, HD 1, 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."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1816, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 383-04) recommending that H.B. No. 2408, HD 1, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2408, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 384-04) recommending that H.B. No. 2437, HD 1, as amended in HD 2, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2437, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CABLE TELEVISION," was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 385-04) recommending that H.B. No. 2883, HD 1, as amended in HD 2, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2883, HD 2, entitled: "A BILL FOR AN ACT RELATING TO WIRELESS ENHANCED 911

SERVICE," was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 386-04) recommending that H.B. No. 2762, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2762, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHARITABLE ANNUITIES," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representatives Hiraki and Hamakawa, for the Committee on Consumer Protection and Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 387-04) recommending that H.B. No. 2409, as amended in HD 1, pass Second Reading and be referred to the Committee on Labor and Public Employment.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2409, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Second Reading and was referred to the Committee on Labor and Public Employment, with Representative Pendleton being excused.

Representatives Hiraki and Hamakawa, for the Committee on Consumer Protection and Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 388-04) recommending that H.B. No. 2364, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2364, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SOLICITATION OF FUNDS FOR CHARITABLE PURPOSES," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representatives Hiraki and Hamakawa, for the Committee on Consumer Protection and Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 389-04) recommending that H.B. No. 2411, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2411, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 390-04) recommending that H.B. No. 2785, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2785, HD 1, pass Second Reading and be referred to the Committee on Judiciary, 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. 2785, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EASEMENTS," passed Second Reading and was referred to the Committee on Judiciary, with Representative Pendleton being excused.

Representative Chang, for the Committee on Tourism and Culture presented a report (Stand. Com. Rep. No. 391-04) recommending that H.B. No. 2809, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2809, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOTEL PROJECT TAX CREDIT," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 392-04) recommending that H.B. No. 2303, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2303, entitled: "A BILL FOR AN ACT RELATING TO NORTH KOHALA," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representatives Kanoho and Kahikina, for the Committee on Water, Land Use and Hawaiian Affairs and the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 393-04) recommending that H.B. No. 2235, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2235, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. I'm rising to cast a no vote on House Bill 2235. Mr. Speaker, the whole point of our Section 201G is to fast-track housing for low-income. The point is that there were certain time limits set up, one of which allows disapproval within 45 days. You have to act that quickly. And it's in the best interest of providing low-income housing. This bill is going to extend that disapproval period to 75 days and add in a further requirement that HCDCH has to hold a public hearing in the community area where the proposed housing project is to be located.

"HCDCH came in and testified and explained that there was a bad situation on Maui in the past. HCDCH has improved its procedures. It has a new Director. And things are going to operate very well. I don't think we should pass a bill that applies to just a single mistake from a former administration on the neighbor island. Thank you."

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

"Thank you, Mr. Speaker. I rise with strong reservations on this bill. Having been involved with the mistake that was made on Maui, I would just hate to see it happen again. I do feel that the new Director of HCDCH will move projects through better

in the future. And it won't happen. But I still have some reservations on it. Thank you, Mr. Speaker."

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

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

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

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

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

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

"In support. This was a homerule issue. This was an HSAC proposal for the counties."

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

Representative Kaho'ohalahala rose to speak in support of the measure, stating:

"Mr. Speaker, rising in strong support. I would just like to remind this Body that this was an incident that specifically occurred on Maui with HCDCH. And what they are really asking for is that to extend the 45 days. There are going to be situations within the counties' own processes that are going to sometimes prevent them from even acting within the 45-day period. So the 75 days, in particular, is when the counties go through the budget processes. They will not have time to set aside specific hearings that HCDCH will be a part of. So this extension will allow them a little bit more time to deal with those issues."

"The other part of the bill was to make sure that the conditions that are being recommended by HCDCH can actually be modified."

"And lastly, the idea that a project would affect a particular area, and in this case West Maui, that HCDCH did not even conduct any hearings on the island of Maui. And in fact, conducted them on other islands in regards to the West Maui project. So here again is to bring some of the discussions because you want a project that's looking for all of these exemptions. You want community input so that the best product that comes out of the recommendations to a county council has already dealt with it. And that's the purpose for this bill coming forward."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2235, HD

1, entitled: "A BILL FOR AN ACT RELATING TO AFFORDABLE HOUSING PROJECTS," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski, Finnegan, Fox, Hale, Jernigan, Meyer, Moses, Ontai, Stonebraker and Thielen voting no, and with Representative Pendleton being excused.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 394-04) recommending that H.B. No. 2467, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2467, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SALARIES," passed Second Reading and was referred to the Committee on Finance, with Representative Pendleton being excused.

Representatives Abinsay and Morita, for the Committee on Agriculture and the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 395-04) recommending that H.B. No. 2050, pass Second Reading and be referred to the Committee on Judiciary.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2050 pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Lee.

Representative Sonson 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. 2050, entitled: "A BILL FOR AN ACT RELATING TO PLANT AND NON-DOMESTIC ANIMAL QUARANTINE," passed Second Reading and was referred to the Committee on Judiciary, with Representative Pendleton being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 396-04) recommending that H.B. No. 2966, HD 1, as amended in HD 2, be referred to the Committee on Consumer Protection and Commerce.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2966, HD 2, be referred to the Committee on Consumer Protection and Commerce, seconded by Representative Lee.

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

"Mr. Speaker, reservations. I would like to make a little comment on this bill. The purpose of the bill is to encourage, I guess, alternative energy production. But I think that if we are really committed to such a thing, we should give them incentives, tax breaks, whatever it need be. Give them grants. Give them money."

"However, to do it in this way that we are attempting to use the facilities owned by someone else and not to pay them. I think it's harder to keep track on how much it's really costing the consumers out there because it's going to be passed on to the consumers. To avoid the guess work and to ensure that there is full commitment from this Body, let us use a separate vehicle to encourage the production of alternative energy. Thank you."

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

"In support, Mr. Speaker. A few comments. I think the bill is great in concept. It has a problem by not compensating the utility companies for the transmission of electricity over their lines. I think it can be worked out in the next Committee. It is going to another Committee."

The Chair responded, stating:

"Consumer Protection and Commerce."

Representative Bukoski rose to disclose a possible conflict of interest, stating:

"I just want to disclose a possible conflict. I'm a principal in a company that might benefit from this particular measure," and the Chair ruled, "no conflict."

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

"I rise in support. I just want to point out that there's a provision in here for review by the Public Utilities Commission. And there's nothing that precludes the Commission from charging a tariff."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2966, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ELECTRICITY," was referred to the Committee on Consumer Protection and Commerce, with Representative Pendleton being excused.

Representative Ito, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 397-04) recommending that H.B. No. 2499, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2499, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES," passed Second Reading and was referred to the Committee on Judiciary, with Representative Pendleton being excused.

Representative Ito, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 398-04) recommending that H.B. No. 2507, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2507, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DRUG PARAPHERNALIA," passed Second Reading and was referred to the Committee on Judiciary, with Representative Pendleton being excused.

Representative Ito, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 399-04) recommending that H.B. No. 2864, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2864, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative B. Oshiro rose in opposition to 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 opposition to this measure as the Halawa Correctional Facility is within the 33rd district. While the "not-in-my-backyard" concerns will most always exist for any correctional facility in any community, I do not believe this bill has had sufficient comment and review from the affected community and more public participation is necessary to ensure proper education and ultimate acceptance by the residents.

"Based on previous discussions with the prior Director of Public Safety, I was advised of a previous proposal by a private developer to expand the Halawa Correctional Facility to relocate approximately 1,000 inmates currently housed at the Oahu Community Correctional Center ("OCCC"). I was further advised that a reason for this relocation is that OCCC has limited ability to properly contain inmates, making escapes more prevalent because it is located in an urban center of Kalihi, inconsistent with the surrounding community. Moreover, to avoid the potential of court action for overcrowding at OCCC, the administration is supporting this proposed expansion at Halawa, and anticipates that the Request for Proposal process will be completed by this summer.

"There are reasons why Halawa may be an adequate location – there has been a low rate of escapes since Halawa first opened in 1998, as well as the fact that Halawa is one of the more remote areas within reasonable proximity to urban Honolulu, for transportation to the courts. However, I believe that there are many, many alternative locations that are just as viable, and these need to be explored.

"Halawa already has a prison, a quarry, a freeway, a quarantine station and a full military facility. I believe each area must bear its share of burdens in our modern-day society and it is not fair for my district to absorb so much more than others. It is not fair that this issue is not allowed more exploration merely because of the "not-in-my-back-yard" mentality.

"Consequently, I oppose this measure."

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

"Thank you, Mr. Speaker. On Standing Committee Report 399, I rise in support.

"I see a couple of possible problems though with the measure. What this does is it no longer requires the Governor to build a correctional facility or a treatment center at Halawa. Although that can be a site considered.

"But it does still require DPS to contract for the planning and design of the correctional treatment facility within 90 days of the date of this Act. And I think that's quite fast. Especially since there is no funding included. We have to also remember the procurement process and the bidding process. But there is supposedly some money left from this measure or similar measure from a previous Session but it may require some reauthorization. I just want to point that out before it goes to the Finance Committee."

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

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

At 7:07 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 7:11 o'clock p.m.

Representative Blundell 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."

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

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

"In support. I just wanted to clarify some of the issues in this bill. This bill is not specific to Halawa Correctional Facility, but to Halawa or other sites that would be suitable by the Governor or the Director of Public Safety. I guess we all are aware of the needs for a new facility. This one is earmarked for treatment for drug abuse and mental illness.

"As far as the date, 90 days. The reason that's put in is because we'd like the Director of Public Safety to come in before the beginning of next Session so that we can introduce legislation and funding mechanisms to get this facility completed. Thank you."

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

"In support. I think this is a good idea but I think it can be improved. I think we should have like a 600-700 bed facility for treatment. And that treatment should also include transitional, post-incarcerated individuals, so we can avoid the 180-bed facility in Waipahu where there's transitions and transitional individuals living there.

"Mr. Speaker, the problem has always been where to put this thing and I think it's flexible enough so that the Governor can select, not only Halawa but other places as the prior speaker just said. But as to what are we going to do with funding, Mr. Speaker, I have been an advocate of using what other creative means we can do to solve our revolving door. People from the streets who commit a crime because of their drug problem, they go to jail. And yet they are released from jail, back into the community, maybe in Waipahu transitional housing for a little while, then back on the streets and back to prison. To avoid this, we need to seriously take a look at our ability to house them and prepare them to go back into society. And by providing a facility, like a 600-700 bed facility to prepare them to go outside to join us here as good citizens. We have to be committed.

"I, Mr. Speaker, have been saying since last Session, let's find the money. And I think the money is there. There's \$190 million is sitting doing nothing. Let's use the Hurricane Fund."

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

"Yes. Mr. Speaker. I speak in favor. And I'm of the understanding that this is going to the Finance Committee and I

would advise the Finance Committee as they look for sites, that they do look on the Windward area, especially Lanikai and Kailua, which is as good an area as any."

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

"Mr. Speaker, speaking in favor of the measure and responding to Speaker Emeritus. We have two correctional facilities over on the Windward side. We had one landfill. We have a quarry that very sadly is shut down due to the strike. And it's a wonderful place. I would certainly invite the Speaker Emeritus to come over and visit the Windward side one day. We have a lot of good programs going on at the Women's Correctional Facility and a lot of volunteers that are working with the inmates of that facility.

"The bill is a good bill, Mr. Speaker. I believe that the faster we move on this type of measure, the better off everyone will be. 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. 2864, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONAL FACILITIES," passed Second Reading and was referred to the Committee on Finance with Representatives Blundell, B. Oshiro and Takai voting no, and with Representative Pendleton being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 400-04) recommending that H.B. No. 2093, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2093 pass Second Reading and be referred to the Committee on Consumer Protection and Commerce, seconded by Representative Lee.

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

"Mr. Speaker, I would like to have some remarks in strong support of HSCR 400, HB 2093 inserted into the Journal," and the Chair, "so ordered."

Representative Arakaki's written remarks are as follows:

"My comments are in strong support HB 2093, HD1, Relating to Dental Professional Vocational Licensing, that will provide for a new dental licensing arrangement for dentists and hygienists who work for federally qualified health centers and Native Hawaiian Health Care Systems. I also note that the changes included in this measure were endorsed after many hours of work by the Hawaii Island Oral Health Task Force.

"Hawaii has some very significant oral health problems. Our children have nearly three times the national average for baby bottle tooth decay. Double the number of dental caries, 60% more decayed and filled teeth, and a greater proportion of unmet treatment needs. Over 270,000 Hawaii residents have no dental insurance while 80,000 MedQUEST insured adults have no basic dental benefits. More than 85,000 children have MedQUEST dental benefits, but find it difficult to find a dentist to serve them. The federal government has designated all of the islands of Hawaii, Maui, Molokai and Kauai as well as Kalihi-Palama in Honolulu as dental health professional shortage areas.

"There is not one simple solution to our oral health needs, but this measure identifies one that can help. Hawaii has a

relatively good ratio of dentists to population overall, but there is a severe shortage of those who serve people with poverty, language, cultural and geographic barriers. It is obvious that there are significant financial disincentives for dentists to do so. Hawaii also has a chronic shortage of dental hygienists.

"Hawaii's community health centers serve people who are mostly below poverty, largely uninsured or covered by MedQUEST programs, live in geographically remote areas, and are linguistically and culturally isolated. Health centers provide a wide spectrum of necessary primary care services as well as managing and supporting the special access needs of their patients. They are now expected to extend their capacities to provide dental care for the underserved. Native Hawaiian Health Care Systems are also partners in creating access for dental care. Both the health centers and the Native Hawaiian Health Care Systems are sophisticated federally-funded entities whose services are subject to substantial quality review and improvement policies and procedures. They are monitored regularly by their funding and insuring sponsors.

"The health centers and the native Hawaiian Health Care Systems are clearly the most appropriate source of oral health care for thousands of Hawaii's residents, but they are hampered in expanding dental services by lack of funding and a shortage of dental professionals willing to work with them. The bill would be a great boon in addressing at least the latter. Under this bill, experienced public health-minded dentists and hygienists from other states and territories could be attracted to serve these entities. Additionally, new but licensed dentists and hygienists who have service obligations under the Native Hawaiian Health Scholarship Program or National Health Service Corps, would be available to the health centers and Systems."

Representative Leong 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. 2093, entitled: "A BILL FOR AN ACT RELATING TO DENTAL PROFESSIONAL LICENSING," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce, with Representative Pendleton being excused.

At this time, the Chair announced:

"Members at this time, the Chair would like to announce to all of you that in a few minutes, after we recess, you will be getting your Supplemental Calendar Number 2. The problem is that for Supplemental Calendar Number 2, some of the bills are still being printed. So we will present to you up to Stand. Com. No. 461. So 61 more bills will be coming to your desks right after we have our recess.

"So we will recess and I think we should reconvene at 8 o'clock. That should give you enough time to go over the 61 bills that will be on your desks."

At 7:18 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 8:21 o'clock p.m.

SUPPLEMENTAL CALENDAR #2 STANDING COMMITTEE REPORTS

At this time, the Chair announced:

"Members at this time, prior to the recess, I did share with you that you would be having Supplemental Calendar Number 2. So you all have your Supplemental Calendar Number 2.

"Members, if you would please turn to page 12. Standing Committee Reports Numbers 478 and 479 will be moved to the end of calendar since we will have a lot of debate on those two issues."

By unanimous consent, the following measures were deferred to the end of the calendar:

Stand. Com. Rep. No. 478-04 and H.B. No. 2589, HD 1; and
Stand. Com. Rep. No. 479-04 and H.B. No. 2332, HD 1.

Representative Saiki moved for the adoption of Stand. Com. Rep. Nos. 401-04 through 477-04 as listed on pages 1 through 12, and that the accompanying House bills, as may be amended, pass Second Reading and/or be referred to their designated Committee.

At 8:22 o'clock p.m., Representative Takai requested a recess, and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 8:53 o'clock p.m. with the Vice Speaker presiding.

At this time, the Chair announced:

"Member, before we recessed, Representative Saiki made a motion. Representative Saiki, can you withdraw that motion?"

At this time, Representative Saiki withdrew his previous motion.

At this time, the Chair announced:

"Thank you. Members, we're turning to page 4. We're going to take Standing Committee Report 425-04, House Bill 2108, House Draft 1 out of order. We will be taking that up right now. Representative Saiki."

Representatives Kahikina and Arakaki, for the Committee on Human Services and Housing and the Committee on Health presented a report (Stand. Com. Rep. No. 425-04) recommending that H.B. No. 2108, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved, notwithstanding the recommendation contained in Stand. Com. Rep. No. 425-04, that H.B. No. 2108, HD 1, be recommitted to the Committee on Human Services and Housing and the Committee on Health, seconded by Representative Lee.

The motion was put to vote by the Chair and H.B. No. 2108, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LONG-TERM CARE," was recommitted to the Committee on Human Services and Housing and the Committee on Health with Representatives Nakasone, Pendleton, Sonson, Takai and Takumi being excused.

At this time, the Chair announced:

"Members, moving on to page 8. Stand. Com. Report 454-04, House Bill Number 2787, House Draft 1, we'll also be taking that out of order. Representative Saiki."

Representatives Kanoho and Abinsay, for the Committee on Water, Land Use and Hawaiian Affairs and the Committee on Agriculture presented a report (Stand. Com. Rep. No. 454-04) recommending that H.B. No. 2787, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that, notwithstanding the recommendation contained in Stand. Com. Rep. No. 454-04, that H.B. No. 2787, HD 1, be recommitted to the Committee on Water, Land Use and Hawaiian Affairs and the Committee on Agriculture, seconded by Representative Lee.

The motion was put to vote by the Chair and H.B. No. 2787, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND USE," was recommitted to the Committee on Water, Land Use and Hawaiian Affairs and the Committee on Agriculture with Representatives Nakasone, Pendleton, Sonson, Takai and Takumi being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 401-04) recommending that H.B. No. 2481, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2481, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

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

"I stand with strong reservations on this bill. And my reservation is the removal of the word 'may,' substituted by the word 'shall' include aeromedical services as part of the State Comprehensive Emergency Service System. This was one of the reasons that this bill was vetoed by the Governor last year, because it put liability, if the State could not afford to have aeromedical services statewide. By having the word 'shall' in it, makes it mandatory that they are supplied statewide. And at this time, the State does not have the funding to do it statewide. So it's for this reason that I have strong reservations with that. Thank you."

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

"With reservations on the same measure. And if I could just briefly comment on this and all the rest of the bills on this calendar. We have all been caught short with the late arrival of the bills. Thank you."

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

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

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

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

"Thank you, Madame Speaker. I would like to speak in strong support of this measure. I know it took a tragedy to make us realize how important our aeromedical services are to

the State of Hawaii. How vital they are to isolated areas. How important it is to especially our Neighbor Islands. Because they provide instant, a much better response time for those in need. Even though it took a tragedy, I think we as a community realize what a vital role the people in this service provide.

"I think what we really want is to have the emergency aeromedical services as part of the State system. But we also realize that it could be a very expensive proposition, especially when we talk about isolated areas. But I think in the case of Maui, you know we did provide the funds and we hope the Governor will release the monies to provide a helicopter services for the island. However in the future if there are no funds of course, there is a caveat in many of the sections of this bill that says, 'subject to availability of funding.' It's a mandate to show how important it is. But of course if no resources are available then of course it can't be provided. But we really wanted to make a strong statement about how important these services are to the people of Hawaii. So I urge everyone to support this measure. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2481, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY MEDICAL SERVICES," passed Second Reading and was referred to the Committee on Finance with Representatives Meyer and Stonebraker voting no, and with Representatives Bukoski and Pendleton being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 402-04) recommending that H.B. No. 2875, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2875, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TECHNOLOGY," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative Schatz, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 403-04) recommending that H.B. No. 2210, HD 1, as amended in HD 2, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2210, HD 2, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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. 2210, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC DEVELOPMENT," passed Second Reading and was referred to the Committee on Finance with Representative Meyer voting no, and with Representatives Bukoski and Pendleton being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 404-04) recommending that H.B. No. 2915, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2915, HD 1, entitled: "A BILL FOR

AN ACT RELATING TO MOTOR VEHICLES," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 405-04) recommending that H.B. No. 2133, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2133, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

Representative Jernigan 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. 2133, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING IN PUBLIC EMPLOYMENT," passed Second Reading and was referred to the Committee on Finance with Representatives Jernigan, Meyer, Ontai and Stonebraker voting no, and with Representatives Bukoski and Pendleton being excused.

Representative Abinsay, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 406-04) recommending that H.B. No. 2916, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2916, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LOAN PROGRAMS," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representatives Abinsay and Kanoho, for the Committee on Agriculture and the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 407-04) recommending that H.B. No. 2285, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2285, HD 1, pass Second Reading and be referred to the Committee on Finance, 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 Meyer rose and asked that the Clerk record a no vote for her, and the Chair "so ordered."

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

Representative Jernigan 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 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. 2285, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Second Reading and was referred to the Committee on Finance with Representatives Jernigan, Meyer and Ontai voting no, and with Representatives Bukoski and Pendleton being excused.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 408-04) recommending that H.B. No. 2659, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2659, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 409-04) recommending that H.B. No. 1863, HD 1, as amended in HD 2, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1863, HD 2, entitled: "A BILL FOR AN ACT RELATING TO FAMILIES," was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 410-04) recommending that H.B. No. 2366, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2366, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOBACCO," was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 411-04) recommending that H.B. No. 1862, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1862, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD SUPPORT ENFORCEMENT," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 412-04)

recommending that H.B. No. 2238, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2238, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE DRIVER LICENSING," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 413-04) recommending that H.B. No. 2292, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2292, 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 Fox rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2292, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FEES FOR ELECTRONIC FILING, SIGNING, SERVING, CERTIFICATION, AND VERIFICATION OF COURT DOCUMENTS," passed Second Reading and was referred to the Committee on Finance with Representatives Fox, Meyer, Moses and Thielen voting no, and with Representatives Bukoski and Pendleton being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 414-04) recommending that H.B. No. 2386, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2386, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL PROCEDURE," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 415-04) recommending that H.B. No. 2520, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2520, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMERCIAL DRIVER LICENSING," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 416-04) recommending that H.B. No. 2880, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2880, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"Thank you. I'm rising to speak against Committee Report 416. This is having to do with asset forfeiture funds that the law enforcement holds. This is House Bill 2880, House Draft 1. I believe that we should be helping out our law enforcement agencies in their war against ice. Instead, we're working against them. Instead of giving them more tools and the ability to obtain State wiretap okays, instead of allowing law enforcement to interview suspects. I suggested ..."

Representative B. Oshiro rose to a point of order, stating:

"Point of order, Madame Speaker. I don't think she's talking about the bill itself."

The Chair responded, stating:

"Representative Marumoto, please confine your remarks to the bill."

Representative Marumoto continued, stating:

"Thank you. Instead of helping our law enforcement people, we are hurting them by taking away resources and tools from their arsenal. And I think it's outrageous. This would take part of their asset forfeiture funds, albeit for a good cause, drug treatment programs. But it weakens their efforts, the law enforcement efforts to protect the public.

"The Department of Public Safety, HPD, the Honolulu Prosecutors, and the Attorney General strongly protested this raid on their hard won funds. The AG was so exasperated, he almost walked out of the hearing room. All the counties benefit from these funds. Law enforcement purchases equipment with these funds, training, and other useful needs. Yes, we should find money for drug treatment programs but not from the Asset Forfeiture Fund which helps keep drug use down. Let's help keep law and order. Thank you."

Representative Stonebraker 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.)

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

Representative Fox 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.)

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

Representative Finnegan's written remarks are as follows:

"Mr. Speaker, I rise in opposition to S.C.R. 416-04, H.B. 2880, H.D. 1. I know that we are currently looking for revenue to pay for expanded drug treatment programs so that we can more fully implement Act 161. However, I am surprised that the Majority would actually go so far as to divert money from law enforcement in order to fund drug treatment. Indeed, the Majority is being very thorough in doing so. In the Judiciary Committee, representatives from the law enforcement community explained that forcing them to give up some state forfeiture funds might lead them to seek forfeiture under the federal laws instead. The Chair responded by amending the measure to make the receipt of any state forfeiture funds conditional on law enforcement using 15% of their federal forfeiture monies on treatment programs. Why have the law enforcement agencies spend it, instead of turning it over to the State? Because federal law requires that federal forfeiture money be spent by the law enforcement agency. I understand the need for treatment, but why fund it at the expense of law enforcement?

"Law enforcement's need for this money is only growing. Mr. Speaker, and it will be hard to replace. Forfeiture money gave the law enforcement agencies a small amount of discretionary funding to use as they saw fit, for unexpected or unfunded equipment needs or training, for example. And this money has been needed as the responsibilities of law enforcement have expanded to include homeland security and a stepped-up emphasis on the war on ice. The Majority does not seem to recognize law enforcement's role in the war on ice, but it is real. And instead of giving law enforcement more money, this bill takes money away from them. This is wrong.

"Ironically, this strategy may not even work. Giving law enforcement a share of forfeiture money was a means of providing them with an incentive to go through the difficult forfeiture process. Take away the money and you take away the incentive to go through that process. Drug traffickers and dealers will keep their property, and the money from forfeiture will not be gained for treatment but instead lost from the public. We need to choose a realistic and appropriate revenue stream now, and this bill does not do that. For these reasons, I oppose this measure.

"Thank you, Mr. Speaker."

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

"Thank you, Madame Speaker. In support. When we heard the first ice hearing a year ago, there was gentleman from the Big Island who said this is equity. The stuff that they are stealing is coming right out of our homes. And so the treatment ought to go right back to the people that are stealing the stuff out of our homes. Thank you."

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

Representative Ching rose in support of the measure with reservations, and asked that the remarks of Representative Marumoto 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. 2880, HD

1, entitled: "A BILL FOR AN ACT RELATING TO FORFEITURES," passed Second Reading and was referred to the Committee on Finance with Representatives Finnegan, Fox, Marumoto, Ontai and Stonebraker voting no, and with Representatives Bukoski and Pendleton being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 417-04) recommending that H.B. No. 1812, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1812, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SOCIAL WORKERS CODE OF ETHICS," passed Second Reading and was referred to the Committee on Judiciary with Representatives Bukoski and Pendleton being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 418-04) recommending that H.B. No. 2923, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2923, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE," passed Second Reading and was referred to the Committee on Judiciary with Representatives Bukoski and Pendleton being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 419-04) recommending that H.B. No. 2156, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2156, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EARLY CHILDHOOD EDUCATION," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton 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. 420-04) recommending that H.B. No. 2796, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2796, entitled: "A BILL FOR AN ACT RELATING TO STATE FUNDS," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton 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. 421-04) recommending that H.B. No. 2917, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2917, entitled: "A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAX," passed

Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton 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. 422-04) recommending that H.B. No. 2022, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2022, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GENERAL ASSISTANCE," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton 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. 423-04) recommending that H.B. No. 2088, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2088, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CRITICAL ACCESS HOSPITALS," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton 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. 424-04) 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 Saiki, 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 CAREGIVER TAX CREDIT," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton 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. 426-04) recommending that H.B. No. 2109, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2109, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LONG-TERM CARE," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 427-04) recommending that H.B. No. 2925, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2925, HD 1, pass Second Reading and be referred to the Committee on Judiciary, 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 Jernigan 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. 2925, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REFUSE," passed Second Reading and was referred to the Committee on Judiciary with Representative Jernigan voting no, and with Representatives Bukoski and Pendleton being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 428-04) recommending that H.B. No. 2716, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2716, entitled: "A BILL FOR AN ACT RELATING TO THE SOUTH KONA WILDERNESS AREA," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 429-04) recommending that H.B. No. 2420, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2420, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PEST CONTROL," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce with Representatives Bukoski and Pendleton being excused.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 430-04) recommending that H.B. No. 2261, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2261, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Evans 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. 2261, entitled: "A BILL FOR AN ACT RELATING TO HEALTH BENEFITS," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 431-04) recommending that H.B. No. 880, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 880, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 432-04) recommending that H.B. No. 1374, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1374, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 433-04) recommending that H.B. No. 1776, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1776, HD 1, 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 with reservations, stating:

"Thank you, Madame Speaker. I have reservations on 433. Standing Committee Report 433. Well my reservations are that this is workers' comp package benefits, but it gives benefits that I don't think any of us had envisioned or intended. It does some good things, but it sets the maximum medical improvement limit of 156 weeks, which may be excessive.

"But more imposing than that, it says that the actuarial evaluations of all workers' compensation claims shall be looked at so that 90% of all the claims during the next year would be expected to fall within this time period. So it sets the time period that it should be done. And we don't know what that time period is. We don't know what 90% is. And it's just kind of vague. There's a lot to be worked out yet. Thank you, Madame Speaker."

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. 1776, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Second Reading and was referred to the Committee on Finance with Representative Meyer voting no, and with Representatives Bukoski and Pendleton being excused.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 434-04) recommending that H.B. No. 2657, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2657, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 435-04) recommending that H.B. No. 2660, as amended in HD

1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2660, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative Abinsay, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 436-04) recommending that H.B. No. 2848, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2848, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMERCIAL ANIMAL FEED," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representatives Schatz and Chang, for the Committee on Economic Development and Business Concerns and the Committee on Tourism and Culture presented a report (Stand. Com. Rep. No. 437-04) recommending that H.B. No. 2611, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2611, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ENTERTAINMENT INDUSTRY," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative Abinsay, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 438-04) recommending that H.B. No. 2051, HD 1, as amended in HD 2, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2051, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF AGRICULTURE," was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative Schatz, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 439-04) recommending that H.B. No. 2396, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2396, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL INVESTMENTS," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 440-04) recommending that H.B. No. 2969, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2969, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SOLAR ENERGY DEVICES," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce with Representatives Bukoski and Pendleton being excused.

Representative Schatz, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 441-04) recommending that H.B. No. 2142, HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2142, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BUSINESS PRACTICES," passed Second Reading and was referred to the Committee on Judiciary with Representatives Bukoski and Pendleton being excused.

Representative Schatz, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 442-04) recommending that H.B. No. 2765, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2765, HD 1, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Lee.

Representative Stonebraker rose and asked that the Clerk record a no vote 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 Thielen 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 Ching rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

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

"Thank you. And I will be voting no on this anti-business measure. Thank you."

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

Representative Finnegan 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 Blundell 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 Jernigan 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. 2765, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CORPORATE ACCOUNTABILITY," passed Second Reading and was referred to the Committee on Judiciary with Representatives Blundell, Finnegan, Fox, Jernigan, Leong, Marumoto, Meyer, Moses, Ontai, Stonebraker and Thielen voting no, and with Representatives Bukoski and Pendleton being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 443-04) recommending that H.B. No. 2252, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2252, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DRUG DEMAND REDUCTION ASSESSMENTS," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 444-04) recommending that H.B. No. 2381, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2381, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE TORT LIABILITY ACT," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 445-04) recommending that H.B. No. 1781, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1781, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ATTORNEY'S LIENS," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 446-04) recommending that H.B. No. 2300, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2300, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 447-04) recommending that H.B. No. 2514, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2514, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAX ADMINISTRATION," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 448-04) recommending that H.B. No. 2338, as amended in HD 1, be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2338, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EXEMPTION OF LEASES AND UTILITY AND ACCESS EASEMENTS," was referred to the Committee on Judiciary with Representatives Bukoski and Pendleton being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 449-04) recommending that H.B. No. 1713, as amended in HD 1, be referred to the Committee on Judiciary.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1713, HD 1, be referred to the Committee on Judiciary, seconded by Representative Lee.

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

Representative Kaho'ohalahala 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. 1713, HD 1, entitled: "A BILL FOR AN ACT RELATING TO KAHULUI HARBOR," was referred to the Committee on Judiciary with Representative Thielen voting no, and with Representatives Bukoski and Pendleton being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 450-04) recommending that H.B. No. 1806, HD 1, be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1806, HD 1, be referred to the Committee on Finance, seconded by Representative Lee.

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

"On 450, I rise in opposition. This bill is unnecessary and I would like to submit written comments," and the Chair, "so ordered."

Representative Morita's written remarks are as follows:

"Madame Speaker, I rise in opposition to this measure because I believe this bill is unnecessary. According to testimony provided by the State Land Use Commission (LUC), existing provisions of the Land Use Law already support notice and information to interested parties such as the commanders of military installations, therefore statutory relief is not necessary.

"Furthermore, Anthony J.H. Ching, the Executive Officer of the LUC stated, "should military authorities desire to uniformly submit comments or review and proposed land use reclassification before the LUC, this could be implemented within existing procedures immediately. However, the onus or burden of providing timely and uniform comment would fall upon military authorities and may not coincide with their operational capacities or priority. Given the limited ability of State law to trump federal authority, enactment of statutory language versus allowing military authorities to initiate at their

choosing intervention and comment vehicles currently available under existing statute would not seem to be appropriate."

"Besides noting the impracticality of implementing several provisions of this measure, Mr. Ching closed by saying, "in any case, the LUC remains available to work with the military authorities to understand how administration of the State's land use law can better serve the needs of homeland security and national defense."

As I mentioned previously, this bill is unnecessary and I do not support this measure."

Representative Kaho'ohalahala 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. 1806, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MILITARY INSTALLATIONS," was referred to the Committee on Finance with Representatives Kaho'ohalahala and Morita voting no, and with Representatives Bukoski and Pendleton being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 451-04) recommending that H.B. No. 1805, HD 1, as amended in HD 2, be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1805, HD 2, 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 Kaho'ohalahala rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Evans 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. 1805, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE STATE PLAN," was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 452-04) recommending that H.B. No. 2183, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2183, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

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

"A no vote on the same measure. It erodes the land use powers of the counties. We should be allowing the counties to do more with their land use."

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

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

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

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

Representative Jernigan 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. 2183, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ZONING," passed Second Reading and was referred to the Committee on Finance with Representatives Blundell, Fox, Jernigan and Meyer voting no, and with Representatives Bukoski and Pendleton being excused.

Representatives Kanoho and Schatz, for the Committee on Water, Land Use and Hawaiian Affairs and the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 453-04) recommending that H.B. No. 2447, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2447, 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 Bukoski and Pendleton being excused.

Representative Souki rose, stating:

"Madame Speaker, on 454, has that been brought up already?"

The Chair responded, stating:

"454 has been recommitted."

Representative Souki: "Well Madame Speaker, my apologies."

Representatives Kanoho and Abinsay, for the Committee on Water, Land Use and Hawaiian Affairs and the Committee on Agriculture presented a report (Stand. Com. Rep. No. 455-04) recommending that H.B. No. 2800, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2800, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

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

"Permission to include written comments in strong support of this landmark legislation," and the Chair, "so ordered."

Representative Kanoho's written remarks are as follows:

"I write in very strong support of this landmark legislation, which will finally fulfill the State constitutional mandate of identifying important agricultural land (IAL) throughout the State of Hawaii.

"That this has been an extremely complex and contentious issue is clearly reflected by the unsuccessful attempts by the Hawaii State Legislature over the past 26 years to develop the required standards and criteria to both designate and to reclassify important agricultural lands.

"HB 2800 is the proud product of the "Agricultural Working Group" (AWG). Composed of approximately 120 individuals representing state and county government agencies, private land owners, farmers, conservationists and others, the AWG was formalized by the 2003 Legislature to assess the issues involved and to prepare legislation which would fulfill the constitutional IAL mandate.

"Monthly AWG meetings of about 40-50 from all islands were preceded by sub-committee and facilitator/leadership planning sessions which conservatively consumed about 2500 hours throughout the past year. Significant expenses were incurred in the entire AWG process, particularly on the part of Neighbor Island AWG members; also in bringing mainland resource person from "American Farmland Trust" to share their expertise on this subject.

"In recognition of "home rule" and the role of the counties in land use matters, this bill places initial responsibility on each county planning department to follow criteria and guidelines to designate important agricultural lands. The process would require input from land owners, community groups and all interested parties.

"Following approval by each county council, the designation of IAL and required mapping would be subjected to review and final approval by the Land Use Commission.

"In accordance with constitutional requirements, this bill also contains standards and criteria to enable the reclassification and rezoning of important agricultural lands.

"A criteria important element in this bill and in the entire IAL designation process is the need for incentives. Without incentives, it is very unlikely that there will be anyone to farm the designated important agricultural lands. It is very clear that unless Hawaii's farmers can competitively price their products against mainland produce, Hawaii's prime agricultural lands will continue to remain idle.

"Therefore the bill requires the State Department of Agriculture to work with the Farm Bureau and others to develop incentives.

"The bill provides funding to assist the counties in the IAL designation and mapping process. These funds would be made available through the Department of Agriculture (DOA) through the submission of a plan satisfactory to the DOA. It is envisioned that a qualified professional consulting firm would be contracted by the DOA to assist the counties in this endeavor. This would better assure overall consistency, timely completion as well as avoid under or over designation of IAL.

"Some funding is also provided towards the development of needed incentives to assist farmers and landowners.

"The adoption of a reasonable IAL policy is critically important lest we continue to use lands and encroach onto prime agricultural lands with non agricultural uses whereby such "piecemeal" actions over time could eventually lead towards a policy based on such less-than-desirable precedent-setting actions.

"At long last, the time has come and it appears that we are on the verge of fulfilling this important mandate!"

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

Representative Waters 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 an aye vote with reservations for her, and the Chair "so ordered."

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

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

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

Representative Magaoay 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 Souki 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 an aye vote with reservations for her, and the Chair "so ordered."

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

At 9:12 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at o'clock 9:13 p.m.

At 9:13 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 9:14 o'clock p.m.

The Chair then announced:

"On top of page 9, there is an error. Stand. Com. Report 455, that's a duplicate of what was listed on page 8, which is 455. We do not have two 455s. So Representative Stonebraker, it's the same bill."

Representative Stonebraker replied, stating:

"Madame Speaker, at any rate. Madame Speaker, I still would like to register a vote with reservations. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2800, HD 1, entitled: "A BILL FOR AN ACT RELATING TO IMPORTANT AGRICULTURAL LANDS," passed Second Reading and was referred to the Committee on Finance with Representatives Herkes and Souki voting no, and with Representatives Bukoski and Pendleton being excused.

Representatives Abinsay and Kanoho, for the Committee on Agriculture and the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 456-04) recommending that H.B. No. 1956, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1956, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL LAND PRESERVATION," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 457-04) recommending that H.B. No. 2964, pass Second Reading and be referred to the Committee on Judiciary.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2964, pass Second Reading and be referred to the Committee on Judiciary, 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. 2964, entitled: "A BILL FOR AN ACT RELATING TO ADMINISTRATIVE INSPECTIONS," passed Second Reading and was referred to the Committee on Judiciary with Representative Thielen voting no, and with Representatives Bukoski and Pendleton being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 458-04) recommending that H.B. No. 2842, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2842, pass Second Reading and be referred to the Committee on Finance, 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."

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 AQUATIC LIFE," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 459-04) recommending that H.B. No. 2195, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2195, HD 1, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Lee.

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2195, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LANDOWNERS," passed Second Reading and was referred to the Committee on Judiciary with Representatives Moses and Thielen voting no, and with Representatives Bukoski and Pendleton being excused.

Representatives Kanoho and Kahikina, for the Committee on Water, Land Use and Hawaiian Affairs and the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 460-04) recommending that H.B. No. 1758, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1758, 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 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 Thielen rose to speak in opposition to the measure, stating:

"No on 460, the HCDCH for the same reasons expressed earlier on a bill involving that agency."

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

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

Representative Finnegan's written remarks are as follows:

"Mr. Speaker, I rise in opposition to S.C.R. 460-04, H.B. 1758, H.D. 1. I understand that the proponents of this measure are well-intentioned and are seeking only to allow the counties to participate more meaningfully in low-income housing development projects.

"However, I worry that the real impact of this bill will be only less low-income housing for our State, not more meaningful participation by the counties. The purpose behind exempting HCDCH projects from county planning and zoning requirements, as well as other statutes and ordinances, is to

enable the Corporation to effectively develop low-income housing. Forcing them to comply with the counties' general plans and planning and zoning requirements will only add to the cost of development, which will then be passed on to the low-income families seeking affordable housing. The exemption needs to be maintained if the costs of HCDCH's housing projects are to be kept as low as possible for the people they are intended to benefit.

"HCDCH has testified that they have made changes to their procedures to address the problems that have occurred in the past. These changes will address the counties' concerns beforehand, and remove the need for this bill. I believe this flexible response is the better way to address these problems while remaining true to HCDCH's mission.

"Thank you, Mr. Speaker."

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

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

"I want to register strong support and submit written comments," and the Chair "so ordered."

Representative Kaho'ohalahala's written remarks are as follows:

"Mr. Speaker, speaking in favor of the measure. This bill arises as a direct result of the concerns raised by the Maui County Council, the communities of Maui, especially those residents of West Maui, where the Pu'u Noa project was proposed. Having attended the community hearings, it was evident by the hours of testimony that went well into the night, the people thoroughly opposed the HCDCH process.

"Of concern was the fact that the Pu'u Noa project developer circumvented the community review process by seeking the direct support of HCDCH as an affordable housing project. The HCDCH process required action by the county council to approve or disapprove the project within 45 days. The 45-day requirement did not allow the Council ample time for community review, comment and input. This raised concerns by the West Maui community and the Council.

"Another concern voiced by the West Maui community was the fact that this particular project was not considered or consistent to their community plans. The residents of West Maui had worked rigorously and diligently to adopt a plan that reflects their vision of their community and the Pu'u Noa project did not consider it at all.

"Another concern of the community and Council was the fact that the HCDC process did not allow for other zoning and planning requirements as further conditions to the approval process. The Council would have considered other conditions that could have improved on the developers' plans and met the community concerns, but unable to do so, the County Council was left powerless.

"And lastly, there was an overwhelming issue raised in testimony as to whether the Pu'u Noa project in and of itself was affordable.

"As a result of these concerns raised by the people of West Maui and the Maui County Council, I support their initiative to improve on a process that is intent of providing affordable housing. This measure seeks to do that. Mahalo."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1758, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING PROJECTS," passed Second Reading and was referred to the Committee on Finance with Representatives Blundell, Ching, Evans, Finnegan, Fox, Hale, Leong, Meyer, Moses, Ontai, Stonebraker and Thielen voting no, and with Representatives Bukoski and Pendleton being excused.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 461-04) recommending that H.B. No. 1774, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1774, 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:

"I would like to register a no vote. This allows collection of unemployment benefits even if the employee is working during that week. It allows the entire week of collection of unemployment benefits. Thank you."

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

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

"Madame Speaker, I stand in strong support of this measure. House Bill 1774, House Draft 1, Relating to Unemployment Benefits, would actually encourage claimants of unemployment insurance to seek gainful employment by permitting claimants to receive their weekly benefit amount without regard to earnings received for employment.

"By way of background Madame Speaker, and to refresh the recollection of this Body, last session, the Regular Session 2003, the Labor Committee heard this or similar measure to this. It was reported out as House Bill 968. It's basically identical to the bill we have before us this evening. The long and short of it was, it was vetoed by the Governor. And in passing out this measure to the Governor, Madame Speaker, I believe the Legislature found that this bill would have impact

and would provide assistance to those workers who are working more than one job on a part-time basis at or near the minimum wage.

"According to Local 5 representatives, there are at least 5,000 of these workers, who fit into this category. These employees are housekeepers, dishwashers, pantry workers, cooks, front office personnel, phone operators, reservation clerks, maintenance clerks, and bell service attendants. Just down in the Waikiki district alone, you probably have about 20 to 25 thousand of these types of workers at minimum wage in our hotels, restaurants and diners. According to the Local 5, which makes up less than 30% of Hawaii's visitor industry, this bill would provide direct assistance to that group of employees who work multiple part-time jobs and will lose one of those jobs because of termination or unemployment, numbering about 17,000 throughout the State.

"Madame Speaker, despite this fact that this bill would truly help Hawaii's working people, Governor Lingle vetoed this measure last year. But based upon fiscal concerns primarily, the argument was that to delete the \$50 offset provision would lead to a 6% increase in unemployment insurance payments, which according to the Department of Labor and Industrial Relations Director, would amount to approximately \$8 million.

"Madame Speaker, on January 27th of this year, the Labor Committee convened an informational briefing on the budget. And at that time, Director Befitel informed the Committee that there are approximately \$30 million in federal Reed Act Funds, which are available for unemployment insurance purposes. However because the State has not authorized the use of these monies for anything other than administrative purposes, these funds are currently sitting in a bank. Sitting in a bank drawing interest. However, it was brought to the Committee's attention by the Director, and reconfirmed by the Director that we have this \$30 million at our disposal.

"Madame Speaker, this is not new news. In fact last year, the Legislature approved a measure that would draw Reed Act Funds ..."

Representative Fox rose to a point of order, stating:

"Point of order, Madame Speaker. The speaker's time is expired."

Representative Schatz rose to yield his time.

The Chair responded, stating:

"Actually, there's one more minute. If you can yield your time after a minute. Representative Marcus Oshiro, please proceed."

Representative M. Oshiro continued, stating:

"You know last year, this was also vetoed on the grounds that there would be no money. But since that time, Madame Speaker, the Unemployment Insurance Fund has remained solvent. Businesses that pay into the Unemployment Insurance Fund have seen a reduction from \$1.50 to \$0.80, all because of our expanding economy and our low unemployment rate.

"Madame Speaker, to give Members a better idea of who this really impacts, and who these 17,000 people are, I created two example of how this works. So please bear with me."

The Chair called upon Representative Schatz who rose to yield his time, and the Chair "so ordered."

Representative M. Oshiro continued, stating:

"Thank you. We have two employees, one is Pat Ledesma, who works one job and gets \$480 a week. Pat is laid off and then is entitled to unemployment insurance. And I won't go into how she is entitled to it, but she goes through a process of having worked so many quarters to become eligible for it. So what we take is \$480 in that one week times 57% to come out with \$274 of unemployment insurance benefit. And that is her take-home unemployment benefit.

"On the other hand, you have Patricia Aki. And this is another worker. But Patricia Aki has two jobs. In her first job, she makes \$400 a week. In her second job, she makes \$80. Patricia is laid off from her first job in which she makes \$400. So like Pat, \$400, it's Pat Aki not Pat Shimizu, it's \$400 time 57%. You come out with \$228 as a qualified unemployment insurance benefit.

"Now this is where the offset kicks in. Because of her second job, which offsets it at \$50, you would minus \$50 from the second job income of \$80, which equals \$30. So subtracting \$30 from \$228 of her first job unemployment benefit, she gets \$198 in adjusted unemployment benefit. Adding to that, her \$80 income from the second job, she gets \$278 total take home pay. So when you compare Pat Ledesma, staying at home getting unemployment of \$274 and Patricia Aki, who also lost her job and is now working her second job and getting \$80 a week, the difference is \$4.

"Madame Speaker, that's why this bill was supported in concept, by both the Governor and Director Befitel. It's the right thing to do for our part-time/multiple-time workers. For those in our hotel, restaurants, beverage industries. For 17,000 plus individuals who might face the situation. This is not an incentive to stay on unemployment. To the contrary Madame Speaker, this is an incentive to be industrious, to work that second and third job, and to do the best that you can. It's for these reasons, Madame Speaker, that I am in strong support of this measure. Thank you."

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

"Thank you Madame Speaker. I will be voting no on this measure. I think there are some serious problems with this bill that we should pay some attention to. One of the things I'm concerned about is the cost. The projections that we got from the Department of Labor were about \$8 million a year that would come out of the Unemployment Trust Fund if this bill were to be passed. And the projected fund balance at the end of November '04 would be just short of the statutorily defined adequate reserve fund, and that could trigger Schedule D next year. And that would mean higher unemployment taxes that employers would have to pay. I think that's something that we have to be cognizant of. Thank you, Madame Speaker."

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

Possible conflict. I am an employer," and the Chair ruled, "no conflict."

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

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

"I rise in opposition to this measure. I think that we collect this unemployment fund from employers. It is a tax. And it's a percentage of payroll, albeit, right now it's at a fairly low level. But there's hundreds of millions of dollars in this fund. And

had we perhaps had a moratorium on this fund for like a year, then some of that money can be retained by employers so they could hire a part-time person, full-time or hire extra staff. We did have a moratorium back in 1988 so there's no reason we can't do it again.

"People fear that the trigger level will be enacted and we will have a higher rate. A higher rate will kick in at that time. But I contend that that trigger rate might be too high. And I would much rather see employers retain that money. Use that money for business expansion, for hiring more people, and paying their workers better. Thank you."

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

At 9:28 o'clock p.m., Representative Takai requested a recess, and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 9:30 o'clock p.m.

At this time, the Chair stated:

"Members, I've been calling Stand. Com. Report 461 as 416. It's getting late so let me just correct myself for the record. It's 461 not 416. Any other discussion on 461?"

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

Representative Ching rose in support of the measure with reservations, and asked that the remarks of Representative Marumoto 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. 1774, HD 1, entitled: "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT BENEFITS," passed Second Reading and was referred to the Committee on Finance with Representatives Fox, Jernigan, Marumoto, Meyer, Moses, Ontai, Stonebraker and Thielen voting no, and with Representatives Bukoski and Pendleton being excused.

Representative Moses rose, stating:

"Thank you, Madame Speaker. Yes, on 462, I would like to register a no vote."

The Chair responded, stating:

"Oh that's page 10. We're not there yet."

Representative Moses: "Okay, it's page 9 on mine."

Vice Speaker Luke: "You probably have the better copy. Any other discussion on any of the other bill on page 9?"

At 9:33 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 9:34 o'clock p.m. with Speaker Say presiding.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No.

462-04) recommending that H.B. No. 2700, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2700 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:

"Thank you, Mr. Speaker. On 462, this bill requires the determination of payment of unemployment insurance claims made within 30 days of filing your claim. My concern is, what if an employee doesn't do the necessary paperwork within the 30 days. The employer is still required to pay the unsubstantiated claims."

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

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

Representative Jernigan 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. 2700, entitled: "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT INSURANCE," passed Second Reading and was referred to the Committee on Finance with Representatives Fox, Jernigan and Moses voting no, and with Representatives Bukoski and Pendleton being excused.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 463-04) recommending that H.B. No. 2216, pass Second Reading and be referred to the Committee on Judiciary.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2216, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. Another no vote please. I won't go in much details except, I think this discriminates against an employer's right to determine what sick leave he authorizes for his employees. And it allows I think, misuse by the employees. It creates a new protected class of employees who can use sick leave. It encourages frivolous litigation of alleged unlawful terminations. And it may force businesses to reduce voluntary sick leave programs."

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2216, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT," passed Second Reading and was referred to the Committee on Judiciary with Representatives Meyer, Moses and Stonebraker voting no, and with Representatives Bukoski and Pendleton being excused.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 464-04) recommending that H.B. No. 2741, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2741, 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:

"Thank you, Mr. Speaker. I would like to register a no vote on this Governor-dwindling power bill."

Representative Meyer rose and asked that the Clerk record a no vote for all Minority Members present, 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. 2741, entitled: "A BILL FOR AN ACT RELATING TO EXECUTIVE DEPARTMENTS," passed Second Reading and was referred to the Committee on Finance with Representatives Blundell, Ching, Finnegan, Fox, Halford, Jernigan, Leong, Marumoto, Meyer, Moses, Ontai, Stonebraker and Thielen voting no, and with Representatives Bukoski and Pendleton being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 465-04) recommending that H.B. No. 2844, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2844, entitled: "A BILL FOR AN ACT RELATING TO CRYSTAL METHAMPHETAMINE," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 466-04) recommending that H.B. No. 2843, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2843, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

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

Representative Ching 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. 2843, HD

1, entitled: "A BILL FOR AN ACT RELATING TO CRYSTAL METHAMPHETAMINE," passed Second Reading and was referred to the Committee on Finance with Representatives Ching, Finnegan and Takai voting no, and with Representatives Bukoski and Pendleton being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 467-04) recommending that H.B. No. 1783, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1783, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Meyer rose and asked that the Clerk record a no vote for all Minority Members present, and the Chair "so ordered."

Representative Sonson 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. 1783, HD 1, entitled: "A BILL FOR AN ACT RELATING TO RULEMAKING," passed Second Reading and was referred to the Committee on Finance with Representatives Blundell, Ching, Finnegan, Fox, Halford, Jernigan, Leong, Marumoto, Meyer, Moses, Ontai, Sonson, Stonebraker and Thielen voting no, and with Representatives Bukoski and Pendleton being excused.

Representatives Kanoho and Schatz, for the Committee on Water, Land Use and Hawaiian Affairs and the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 468-04) recommending that H.B. No. 2840, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, 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 ENHANCING ECONOMIC DIVERSITY," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

At 9:36 o'clock p.m., Representative Saiki requested a recess, and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 9:37 o'clock p.m.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 469-04) recommending that H.B. No. 2599, pass Second Reading and be referred to the Committee on Judiciary.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2599 pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Lee.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2599, entitled: "A BILL FOR AN ACT RELATING TO TORT

ACTIONS," passed Second Reading and was referred to the Committee on Judiciary with Representatives Bukoski and Pendleton 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. 470-04) recommending that H.B. No. 2603, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2603, 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 would like to speak in opposition to this measure. We have a aggressive Director of the Department of Human Services who is vigorously going after federal money to help cover a wider number of people under QUEST. This would blow a big hole in the budget if this bill were to actually pass. Why don't we just vote it down right now. Thank you, Mr. Speaker."

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

"Mr. Speaker, I rise in strong support. Mr. Speaker, I understand that it is a cost factor but we are trying to address needed services in our community, especially extending the coverage for the children and for the very indigent people of our State. And I hope that maybe, perhaps, leaving this measure alive would at least give us a vehicle in case by some miraculous reasons that we do find the finances, that we do have a vehicle available. It does send a strong message that we are here to look at the needs, especially the health needs of the very frail, especially our children. And I urge our colleagues to at least support the intent of this measure. Thank you."

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

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

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

"Yes. Thank you, Mr. Speaker. I would like to speak in strong support of this measure. And real quickly, I think we all realize that the number of uninsured people are increasing in the State of Hawaii. We had a group called the Hawaii Uninsured Project, and they went through an extensive process by trying to identify the reasons for the increases and how we can stem the tide. Even though we're talking about cost here, eventually the cost of the uninsured ends up being much greater because they end up in our emergency rooms.

"One of the recommendations that they made was that our QUEST program is supposed to serve low-income people. Because the Department of Human Services has placed caps on the enrollment. Enrollment of those who are truly needy have been restricted, and many deserving people who are at or below the poverty level have been left out.

"I do want to credit the Director of the Department of Human Service Director though, because she has aggressively tried to find through outreach efforts, especially women and children who are at that level. And she has also pledged that these enrollment caps should be lifted if she can find the resources.

So this is more encouragement to her, and allows the Department to find more people who are deserving, and find the resources so that federal funds through CMS can be drawn, and we can find the resources for the uninsured. Thank you, Mr. Speaker."

Representative Kahikina rose to respond, stating:

"Thank, Mr. Speaker. Stand in support, speaking second time on 470. In strong support. Mr. Speaker, we're trying to eliminate enrollment caps as the Chair of Health had stated. And as he stated that we also trying to cover adult dental services also. And as he has stated that we are dealing with costs and we are supporting our Director of Human Services.

"But we also realize that if we can help our very frail citizens, we can save costs down the line as was stated by the Chair of the Committee on Health. And for those reasons we really ask our colleagues to support this measure."

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

"I would like to register a no vote. Where we would like to get as many people covered as possible, we only have so many funds. And I think the Director of the Department of Human Services is trying to do everything she can. This is \$5 million and that's just starting. We don't know how much this would be. It's a great wishlist but we can't pay for everything. So I don't think it's responsible, so I will have to vote no."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2603, entitled: "A BILL FOR AN ACT RELATING TO HAWAII QUEST," passed Second Reading and was referred to the Committee on Finance with Representatives Finnegan, Fox, Jernigan and Meyer voting no, and with Representatives Bukoski and Pendleton 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. 471-04) recommending that H.B. No. 2015, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2015, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"Just like to stand in strong support of this measure. Earlier today, I made some comments on the value of family caregivers to our State. And I would like to put some written comments in the Journal, but again emphasize how much these family caregivers mean to the welfare of the elderly and disabled in our State. And hopefully we can give them some help and help ourselves because they are saving us a lot of money."

Representative Lee's written remarks are as follows:

"It is estimated that Hawaii has almost 115,000 family caregivers providing approximately 107 million hours of care per year. The value of that care is estimated to be in excess of \$800 million. We know, however, that these numbers are much greater because many caregivers do not identify

themselves. It is not a census question, nor is there a caregiver registry.

"Most family caregivers don't have the time to come to the Legislature to testify. They often provide 24-hour care for loved ones with little or no respite. Some caregivers have faithfully discharged their duties for years, giving up jobs, social life and personal interests.

"What can we do to help these family caregivers survive? HB 2112, HD1 is one way. Our caregivers deserve to be supported and they need our help. More importantly -- we need them! Without the work of the family caregiver, our state's long-term care crisis would be much more severe. The Legislature would be wise to support options to help them."

The Chair then recognized Representative Nishimoto who responded, stating:

"I did not stand, Mr. Speaker."

At 9:46 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 9:46 o'clock p.m.

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. 2015, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LONG-TERM CARE," passed Second Reading and was referred to the Committee on Finance with Representative Meyer voting no, and with Representatives Bukoski and Pendleton 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. 472-04) recommending that H.B. No. 2384, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2384, HD 1, entitled: "A BILL FOR AN ACT RELATING TO JUVENILES," passed Second Reading and was referred to the Committee on Judiciary with Representatives Bukoski and Pendleton being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 473-04) recommending that H.B. No. 2070, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2070, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 474-04) recommending that H.B. No. 2695, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2695, 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:

"In opposition. Mr. Speaker, I do not understand how we fight substance abuse by taking money away from the police. It doesn't make any sense to me. Thank you."

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

"A no vote, Mr. Speaker, for the same reasons."

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

"Thank you, Mr. Speaker. A no vote for the same reasons."

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

"No vote for the same reasons."

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 the Chair "so ordered."

Representative Finnegan 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 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. 2695, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SUBSTANCE ABUSE," passed Second Reading and was referred to the Committee on Finance with Representatives Blundell, Ching, Finnegan, Fox, Meyer, Ontai, Stonebraker and Thielen voting no, and with Representatives Bukoski and Pendleton being excused.

At 9:48 o'clock p.m., Representative Saiki 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.

Representative Takumi, for the Committee on Education presented a report (Stand. Com. Rep. No. 475-04) recommending that H.B. No. 2667, as amended in HD 1, be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2667, HD 1, be referred to the Committee on Finance, seconded by Representative Lee.

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

"I wanted to register an aye vote with some pretty strong reservations. I'm concerned about the requirement of the DOE to create a separate Office of Hawaiian Language Education

and to also establish a Hawaiian Language Medium State Education Agency. It seems like we're growing the bureaucracy over there at the DOE. But on the other hand, we may not have a DOE after this Session. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2667, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAIIAN LANGUAGE MEDIUM EDUCATION," was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representative Takumi, for the Committee on Education presented a report (Stand. Com. Rep. No. 476-04) recommending that H.B. No. 2002, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2002, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"I register strong reservations."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2002, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Finance with Representatives Bukoski and Pendleton being excused.

Representatives Takumi and Hamakawa, for the Committee on Education and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 477-04) recommending that H.B. No. 2184, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2184, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"I would like to register a no vote and speak against Standing Committee Report 477-04. I will also be speaking against House Bill 2332. Basically, I think the 'spin masters' have done a great job in convincing some of us that the reconfiguring of the Board of Education equals school reform. But in my mind it does not compute. Whether it's 7 or 17, unless real changes are made at the school level, there is no reform. I said in Committee that it was like more chairs on the deck of the Titanic but in fact, it's worse than that. It's like putting more captains to steer the ship, except they're not even on board.

"Mr. Speaker, I have served for 16 straight years on the Education Committee. I've served with 3 Governors, 4 Superintendents, and there's always been that expression that education was number one. And there was always a promise of reform. But none of it has occurred at the school level. And I know, I've worked with the principals in my area. I work with the students in my area. And in Kalihi, there are many needs. And those needs have yet to be responded to. I know principals are frustrated. I know teachers are frustrated. Because we want to sort of play around the edges of real change.

"I don't think it's going to make a difference on how many boards we have, how many board members we have. I mean, I

graduated from Farrington High School. If you were to ask me who the board members were, when I graduated, I couldn't tell you. But if you ask me who my teachers were, who my principal was, I can tell you. Because they are the ones who make a difference in the lives of our students. And they are the ones that we need to empower. They are the ones with who are going to make a difference as to whether our students succeed. And so I want us to reframe the debate. I think as leaders in our communities, as leaders of the State, we need to focus on the right area. I really want to support our Superintendent. I want to support our principals, give them the autonomy."

Representative Fox rose to a point of order, stating:

"Point of order, Mr. Speaker. I believe the speaker is speaking to the wrong bill."

The Chair responded, stating:

"No. He's speaking to Stand. Com. Report Number 477, the 17-member Board of Ed."

Representative Fox: "It doesn't have anything about doing away with the current board."

Speaker Say: "No, he made reference to the other bill that is at the end of the calendar."

Representative Arakaki: "Mr. Speaker, I believe I'm speaking on why I'm not supporting this bill."

Speaker Say: "Right, absolutely correct. So please proceed, Representative Arakaki."

Representative Arakaki continued, stating:

"And so I think, in my mind, reform equates to empowering our principals, empowering our teachers, and giving them the tools necessary. And there are other measures that we need to put at a higher level than these measures to expand the boards. So that's the main reason why I'm speaking against this bill. Thank you."

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

"I would like to register a no vote as well. And in part, very rarely, Mr. Speaker, would I say that Members are convinced or swayed on this floor. One thing I've learned coming into politics is that many of the decisions are made prior to the meetings. But I appreciate the Chairman of the Health Committee's words on this. They are very honest, very heartfelt and they struck a chord with me. And I would like to incorporate those words as my own," and the Chair "so ordered." (By reference only.)

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

"Thank you, Mr. Speaker. I'm voting no also on that bill. To me, just increasing this Board is not the problem that we need to face. The argument is made that it's helping the Neighbor Islands. We have one member from our island and he's been Chair for a number years. That's one out of 14. If we had one out of 17, we will even dilute our powers. So anybody that thinks this is going to help the Neighbor Islands, I think is foolish.

"Furthermore, I agree with the former speaker and because the problem lies in the school with the teachers and the students and the principal. So I'm voting no also."

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

"I rise in support of this measure. Thank you. I appreciate the words of the Representative from Kalihi. As a matter of fact, I support everything he says except for his support against this measure.

"I think we can support what happens at the school level. We can support what happens in the classroom. That's important. As a matter of fact, the bill that we just passed, House Bill 2002 addresses that. And we all supported it. This bill attempts to address what I currently consider a dysfunctional Board of Education. Not because of the members but because of the way we select the members. We all know for example, on the Neighbor Islands, that the Big Island representative is elected by not only the residents on the Big Island, but also the residents in Maui County, as well as Kauai.

"On Oahu, it's even worse, Mr. Speaker. I'm in the Leeward District of Oahu. Our Leeward District representative, not only gets elected by the Leeward District voters, but the voters in Windward District, Honolulu District, and Central District. In fact, Mr. Speaker, a Board member running on Oahu is basically running for a mayoral race in the City and County of Honolulu. A Board member on Oahu is running in a district larger than Congressional Representative Abercrombie's district. It just doesn't make sense.

"This bill proposes to make districts a little bit more manageable. In fact on the Big Island, this bill proposes to create 2 districts; on Kauai, 1; Maui, 2; and the rest on Oahu. How are we going to do it? Very simply, approximately every 3 House districts will get one Board of Education Member District. Makes sense to me. In fact, if this bill passes, the residents on Kauai will be voting for their Kauai Board of Education Member. The residents on Maui, the residents on the Big Island will not be voting for that Kauai member.

"The last thing I would like to say, Mr. Speaker, is this. We had a Board member representing the Leeward District for many years and for those of you who don't know, that Board member did not have the support of the Leeward District for many years. But that Board member was continuously elected because majority of the people on Oahu voted for that particular Board member. I think that the current process and that example is wrong. This bill attempts to fix that. Thank you, Mr. Speaker."

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

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

"Thank you, Mr. Speaker. I'm rising with reservations and I would like to make some comments regarding governance, but will make them on a later bill."

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

Representative Morita's written remarks are as follows:

"Mr. Speaker, I rise in support of this measure. I strongly believe the current system of how Neighbor Island and Oahu District Board of Education candidates are elected leave these areas' voters disenfranchised.

"I will try to simplify my comments by speaking only on how Neighbor Island board members are elected. To meet the constitutional requirements of 'one man, one vote', currently all Neighbor Island voters vote for each Neighbor Island BOE member. For example, a voter from Kauai now votes for the Maui County, Hawaii County as well as Kauai County BOE candidates

"This bill will allow for one BOE member representing and elected by Kauai voters, two BOE members representing and elected by the County of Maui and at least two BOE members representing and elected by Big Island voters. This scheme will honor the constitutional requirement of one man, one vote but most importantly, each BOE member will be responsible and accountable to that district.

"It is my hope that these smaller districts will encourage more qualified people to run for the BOE and more voters to vote in these races which historically have low voter participation. I strongly believe that passage of this bill will give the Neighbor Islands stronger and better representation on this statewide school board. I urge my colleagues to support this measure."

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

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

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

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

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

"Thank you, Mr. Speaker. I rise in opposition, and I would like to incorporate the words of the Chair of the Health Committee to be in the Journal as my own. And just want add another comment that I believe this is just sidetracking and I think we should focus where the needs are. In the classroom, that person or man or woman that stands before the class, the class, the environment, and support of our principal and our superintendent. Thank you."

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

Representative Meyer 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 Meyer's written remarks are as follows:

"I rise in support of HB 2184, although I do so with reservations. While the idea of establishing separate school districts is a step in the right direction, I am concerned that passage of this bill will seriously strain our State's administrative capacities and increase bureaucracy. Creating school districts along Representative district lines will result in one island, Kauai, being very much over-represented in the new School Board. Mr. Speaker, I ask that you record an "aye" vote, with reservations, for me on HB 2184."

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

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

At this time, the Chair stated:

"We have come up to Stand. Com. Rep. No. 477-04 and at this time, the Chair will call for the question because it is at the end of the motion that the Majority Leader made. Your votes have been cast by the votes you stated on each of the different pages that have been reflected."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2184, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF EDUCATION," passed Second Reading and was referred to the Committee on Finance with Representatives Arakaki, Hale, Kahikina, Nishimoto, B. Oshiro, Schatz and Stonebraker voting no, and with Representatives Bukoski and Pendleton being excused.

Representatives Takumi and Hamakawa, for the Committee on Education and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 480-04) recommending that H.B. No. 33, HD 1, as amended in HD 2, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 33, HD 2, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

At this time, the Chair announced:

"Before I move on, does everyone understand that prior to the motion, that Stand. Com. Report Number 478 and 479 was put to the end of the calendar? You all recall that? So we are now on the motion for adoption and to pass Second Reading and be placed on calendar for Third Reading for Stand. Com. Report 480, all the way to 482."

Representative Tamayo rose and asked that the Clerk record an aye vote with reservations for her, 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."

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

Representative Sonson 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. 33, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading, and was placed on the calendar for Third Reading with Representative Nishimoto voting no, and with Representatives Bukoski and Pendleton being excused.

Representatives Takumi and Hamakawa, for the Committee on Education and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 481-04) recommending that H.B. No. 1895, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1895, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

Representative Tamayo rose and asked that the Clerk record an aye vote with reservations for her, 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."

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

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

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

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

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

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

Representative Meyer 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 Meyer's written remarks are as follows:

"I rise in support of HB 1895, with reservations. Like HB 2184, this bill takes us in a good direction by breaking down some of the bureaucracy of our monolithic education system, but the result may be many small disparate bureaucracies that are just as unwieldy as the one centralized one we currently have. Districting will give our State many logistical problems, and keeping to the letter of the law establishing school boards at each school may not be practical. Just as extremely large school boards seem to add bureaucracy, individual school boards for each of our 258 schools, with responsibility for 3 to 2,424 students each would really fragment the system. In many instances, the existence of these very small school districts on the mainland is the impetus for consolidation. Mr. Speaker, please record my reservations on HB 1895."

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

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

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

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

Representative Chang 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. 1895, 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, Chang, Ching, Kahikina, Kawakami, Nishimoto, B. Oshiro, Sonson, Takai and Wakai voting no, and with Representatives Bukoski and Pendleton being excused.

Representatives Takumi and Hamakawa, for the Committee on Education and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 482-04) recommending that H.B. No. 1897, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1897, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

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

Representative B. Oshiro rose and asked that the Clerk record a no vote 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."

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

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

"Mr. Speaker, I stand in strong support of Standing Committee Report 482. I believe that elected office, especially this Board, is supposed to be a representative democracy and I strongly believe that 16 years-olds and older have the ability to address issues regarding schools.

"I know some people are concerned about personnel matters and about talking about salaries, and maybe things they think needs a little bit more maturity. But I question that because even at 25, 30, you have to look at the qualifications of the person. And this is about the people electing someone. So this 16 or 17 year old or 18 year old, whatever, has to stand in front of the public and has to bear the scrutiny and the questions and the debate. And I just do not believe that we should eliminate the ones younger than 18, so I strongly support 16 year-olds and older. Thank you."

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

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

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

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

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

Representative Meyer 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 Meyer's written remarks are as follows:

"Mr. Speaker, I rise in support, with reservations, of HB 1897. Presently, students seeking election to Board of Education are determined by a vote of members of the Hawaii State Student Council to be eligible to run for this office. The successful candidate is chosen by popular vote of all secondary students in Hawaii. This is a non-voting position. I do not think it's appropriate that a 16-year-old student member should be able to vote on matters such as personnel and pay. If there were certain restrictions on the voting capacity of a student member, in terms of subject matter or issue, I would be more inclined to accept this change. Membership on the BOE is a serious and time-consuming commitment. A student member from my district told me that Board responsibilities and demands on her time had seriously detracted from her ability to keep up with her studies, despite the fact that she was an excellent student. The mandate that voting Board members attend every meeting is simply not consistent with the diligent scholarship required of a first-rate student. These are just some of my reservations on this measure. Thank you, Mr. Speaker."

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

Representative M. Oshiro rose and asked that the Clerk record 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. 1897, HD 1, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE X, SECTION 2, OF THE HAWAII CONSTITUTION, TO CHANGE MEMBERSHIP QUALIFICATIONS FOR THE BOARD OF EDUCATION," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Caldwell, Nishimoto, B. Oshiro, M. Oshiro, Schatz, Sonson, Souki and Wakai voting no, and with Representatives Bukoski and Pendleton being excused.

At 10:09 o'clock p.m., Representative Saiki requested a recess, and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:16 o'clock p.m.

Representatives Takumi and Hamakawa, for the Committee on Education and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 478-04) recommending that H.B. No. 2589, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved, notwithstanding the recommendation contained in Stand. Com. Rep. No. 478-04, that H.B. No. 2589, HD 1, be recommitted to the Committee on Education and the Committee on Judiciary, seconded by Representative Lee.

The motion was put to vote by the Chair and H.B. No. 2589, HD 1, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE 3, SECTION 16, OF THE HAWAII CONSTITUTION, TO MODIFY THE VETO POWERS OF THE GOVERNOR," was recommitted to the Committee on Education and the Committee on Judiciary with Representatives Hamakawa, Mindo, Morita, Nakasone, M. Oshiro, Pendleton and Takamine being excused.

Representatives Takumi, M. Oshiro and Hamakawa, for the Committee on Education and the Committee on Labor and

Public Employment and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 479-04) recommending that H.B. No. 2332, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2332, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Hale 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 Hale's written remarks are as follows:

"I voted "with reservations" on HB 2332, HB1 the so-called "Let the People Decide" Bill proposed by the Governor.

"Actually in the Education Committee hearing I voted "no", but my reasons were different. This HD1 combined two bills, 2331 and 2332. It was thrown down before us in Committee just as the vote was being called. Since it was 120 pages, it was not possible to even thumb through it to determine what, if anything, was changed. I cannot, in good conscience vote for a proposal that I have not read. So in frustration I voted "no".

"However, when the bill came up for Second Reading I was ready, having read it through. Although I do believe there are some good ideas, there are many unworkable items and too many unanswered questions. I do not like the idea of an appointed State Education Standards and Accountability Commission. The method of selection is unworkable. Perhaps the idea of the local school boards appointing a representative on some State commission should be explored. The whole method needs further discussion and study.

"I do like the proposal of abolishing the present State School Board, for I oppose, in general, centralization and top down decision-making.

"The original HB 2332 was 115 pages, and putting the two bills together makes for 120 pages. This is too complicated a proposal to put before the people. Who has time to sift through it, let alone read and understand all its implications? I do not believe that most of the legislators who voted on this bill have really studied it. It does not address adequately the central problem that the people should decide. That question should simply be phrased, "Do you want to abolish the present elected state school board and establish local school boards?" That is a policy question that the people should decide. The details should be left to the legislative process of study and public hearings on the various ways this could be accomplished.

"However, since my HB 2564, introduced by Representative Cindy Evans and myself was not even given a hearing, and therefore the people do not have a chance to express themselves on this important issue, I voted "with reservations" because this bill was the only vehicle which at least gave the people some voice. Before the vote I did propose an amendment to eliminate all the verbiage and let the voters decide the fundamental issue, as stated above.

"Since I was assured that I would be allowed to introduce this amendment on another bill at a later time, I withdrew my amendment, but I do hope to reintroduce it.

"Unfortunately, this whole debate has turned partisan. The slogan "Let the People Decide" has replaced any rational debate about the merits of the proposals offered by the Governor or the Legislature. There is no easy solution to our educational problems. Part of the dilemma involves our

permissive society, the pervasiveness of drugs, dysfunctional families, poverty, cultural insensitivity, and many other factors. One very positive experiment has emerged and that is Charter Schools, which are pioneering in creative ways to teach and stimulate interest in learning among students. They are being driven by the teachers themselves, who ultimately are the ones to insure that students learn.

"I will continue to push for "Letting the People Decide" the basic issue of "Should we abolish the state school board and replace it with locally elected school boards." Once the people have decided that issue then the Legislature has direction to work within those parameters to devise the best system.

"In the meantime the Legislature and the Governor agree on many of the items in both proposals: weighted student formulas for financing, more local input through parents, teacher and community input in School Based Management Councils and eliminating overlapping State functions. Hopefully these solutions will help improve our system while we wait for the basic questions to be answered."

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

"Thank you, Mr. Speaker. I rise to speak against this measure. Thank you. Some people have argued that our decision tonight is very simple. 'Let the people decide,' they say. It's not that simple, Mr. Speaker.

"Our decision tonight is about Matthew, my 2 year-old son, and Kaila, my 9 month-old daughter. Our decision tonight is about every little boy and little girl. Our decision tonight is about our hopes and dreams for our future. I believe that everyone can agree with Superintendent Pat Hamamoto when she says, quote, "Education is about teaching kids so they can be successful adults." Student achievement is about good teaching and instruction, and good schools, having adequate resources, highly qualified professionals, and supportive parents and communities. "Governance is not the single most important reason for school success or school failure," Hamamoto said. In fact, even Bill Ouchi who wrote *Making Schools Work*, admits that, "If you focus only on decentralization, you will get a decentralized district but with low student achievement."

"I agree with the preamble of the Governor's workgroup, Citizens Achieving Reform in Education, CARE, which states, "Education is one of the most precious gifts that one generation can give to the next. Education enables people to reach their highest potential. Education enables each of us to be productive and earn a living. We all value education." However, Mr. Speaker, I don't believe that this bill, House Bill 2332 gets us to where we want to be. Here are some of my reasons why.

"First, the constitutional amendment. Let's look at the question that the Governor is proposing be placed on the ballot. The question on page 119 reads as follows: "Shall the existing public education system be reformed by replacing the existing Department and Board of Education with elected local school boards?" This question, Mr. Speaker is deceptive at best. What are the details?

"But look at page 115 to 119. The Governor is proposing to eliminate the elected statewide school board. She proposes to replace the elected statewide school board with an appointed statewide commission. The voters three times rejected the elimination of the elected board with an appointed board. Some may argue that this appointed board will have no significant authority. And that significant decision making will only occur at the local school board level. This is simply not

true. Look at pages 116 and 117. Here the Governor details the responsibilities of this appointed statewide commission, which includes setting statewide academic standards and ensuring that all State and federal mandates are fulfilled.

"So who appoints the members of this statewide Commission? Well that's a very interesting question, Mr. Speaker, because the constitutional amendment is silent on this issue. But in the statutory provisions of this bill on pages 8 to 10, and by the way these are the ones that the Legislature can adopt and can change at anytime, the Governor proposes to allow the House Speaker and the Senate President to appoint the members of this Commission. The Governor will confirm these appointments. This is a very interesting idea. But there are significant concerns regarding this proposal.

"First, each of the members of the commission will come from one of the 7 local school board districts. Can you imagine what will happen? Let's play this out. Who will appoint the Kauai representative? Will the Speaker appoint the Kauai member, and the President appoint the Maui member, and the Speaker elect the Leeward Oahu member, and President elect the Honolulu member? And let's just say that the Speaker and the President cannot agree with their recommendations within 30 days after the ratification of the constitutional amendment. What then happens? Well the bill proposes to allow the Governor to make these appointments.

"Did I mention what will happen if the Speaker and the President both agree and send to the Governor 7 appointments and the Governor rejects their appointments? According to the bill, the Speaker and the President would then have 15 days to make another appointment, then the Governor will have 30 days to confirm the recommendation. If she again rejects the appointment, the Speaker and the President will have another 15 days to make another appointment. And this can go on and on.

"Here's what I think will happen to this issue. Again, this is not a constitutional amendment, nor is it in the question."

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

Representative Takai continued, stating:

"Thank you. What will happen is the Governor will recommend that this Legislature change the language of the law to allow her to appoint the members of this statewide Board. This again will not be a constitutional amendment because the amendment is silent on this issue.

"Let's look at the details of these local boards. On page 115, the constitutional language says that there shall be at least 7 school districts as provided by law. What does 'as provided by law' mean? Well, that means that Legislatures in the future will be allowed to increase this number from 7 to as much as 283 through a bill and the voters will not have a chance to vote on this. Additionally, the statutory language allows each of these 7 local school boards to approve the separation of a part of a school district into a separate school district without any changes to the Constitution or State law. I will go into this further later.

"So let's be honest with the voters. If this is going to make it on the ballot, the question on the ballot should read: "Shall the elected statewide board of education be replaced with an appointed statewide board of education, whose members of this appointed statewide board shall be appointed by the House Speaker and the Senate President and shall be confirmed by the Governor; and shall the statewide Department of Education be replaced with at least 7 local school boards and 7 local

Departments of Education; and shall the Legislature determine the number and the selection process of both the appointed statewide board and the elected local school boards?" That's what the bill says, Mr. Speaker.

"Now, that's enough about Part II of the bill. What about the first 113 pages? The statutory provisions. If you think the problems with the last 6 pages are not enough, the concerns that I have regarding the first 113 pages are must more significant. But before I spend some time on speaking about these concerns, I would like to mention a few items that I feel are terribly important in this discussion.

"Mr. Speaker, I understand that we work in a political process. I understand that quite well. I also understand that our decisions are sometimes based on politics. That is clear. However, I believe that we were elected to make the best decisions for our constituents and for this State. My decision today is not based on tonight's sound-bites but based on sound research. My decision today is based on what appears to be solid evidence against the decentralization of an educational school district.

"The Governor in her testimony before the Committees said, and I quote: "The positive impact of school district size has been examined extensively. Studies of 37 states plus the District of Columbia have all reached the same conclusion. There is a direct connection between smaller school districts and higher student achievement."

"I asked the Governor, Mr. Speaker, to back up her statements with data. Instead of providing what I had thought would be the studies of the 37 states and the District of Columbia, what we received was one. A single study commissioned by the Heartland Institute, an ultraconservative think-tank that supports school vouchers. The study conducted by Herbert Walberg was done in 1993, more than a decade ago. The spokeswoman for the CARE group noted that the studies suggested that "as states' average school size increases, student achievement declines. And as states' average school district size increases, student achievement declines."

"However there are a number of points worth mentioning about the Walberg report. Another researcher, UCLA's Sibyll Camochan said that Walberg's examination of data "fails to incorporate data on a socioeconomic background, ignoring variations among student populations in schools, districts and states that are likely to correlate strongly with student achievement."

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

Representative Takai continued, stating:

"Thank you. There's no dispute with Walberg's data on small schools. Unfortunately, he cannot adequately separate this from the small district variable.

"Mr. Speaker, I also contacted the Education Commission of the States and the National Conference of State Legislatures. Both organizations agreed that there is very little evidence that carrying out what this bill proposes to do will raise student achievement. In fact one doesn't need to look too far to see that there is no compelling evidence that smaller school districts will raise student achievement.

"Recent Honolulu *Star-Bulletin* headlines read: "Research fails to back gov on school boards. Lingle says smaller districts will improve student performance, but experts say there's very little evidence." And, "Gov's school claim in

doubt. Research indicates the benefit of smaller schools, but not districts, experts say."

"The *Star-Bulletin* editorial a day later was even more to the point. The editorial pointed out that the studies of 37 states plus the District of Columbia that the Governor cited was in fact just one study. And that in their words, "was not conclusive". The editorial also noted "education experts and other studies have found little evidence that district size influences students performance one way or the other. More significant elements of improvement are good curriculum, smaller schools, smaller class size, qualified teachers, and parental involvement."

"The Governor's lead advocate for this reform said that she didn't "want to get into this huge debate over how accurate the studies are." But I agree with the *Star-Bulletin*, which said that, "accurate data is required if the public is to decide the future of public education."

"Even UH College of Education Dean, Randy Hitz, testified on this bill saying that, "Some people have suggested that students in smaller school districts achieved at higher levels than students in large districts. There is no solid research to support this claim."

"The *Star-Bulletin* says that Governor Lingle has not yet connected the dots. Well let's just look at some of these so-called dots. As a matter of fact, Mr. Speaker, I found more than 20 significant issues in the first 113 pages. I would like to spend some time on just a few.

"For example, collective bargaining. The proposal before us suggests that collective bargaining will occur in each local school district. The bill says that, "each local school board shall be responsible for all issues of governance and operations of the school district." So what does this mean? One needs to look at numerous examples of school districts across the nation as to how devastating this would be to our school system, especially those schools in our rural areas. In fact, the bill attempts to bust the principals' union. The principals will no longer be unionized. In other words, Mr. Speaker, the Honolulu School District could pay their high school principals \$20,000 more each year than the Leeward School District. Can you imagine what will happen to principals in our three Oahu school districts, if the Honolulu District does that? Let's take this one step further. What will happen if teachers were paid \$20,000 more each year in the Honolulu District versus the Leeward School District. Let's not be kidding ourselves. Let's be very clear about the intended and unintended consequences of this proposal.

"The election of the school board members. The Governor proposes to create 7 local school boards, each comprised of 5 elected members. These elected members will be at-large from the entire school district. As an example, in the Honolulu District, which comprises of school, complexes from Farrington in Kalihi to Kaiser in Hawaii Kai, there may be as many as 10 candidates for the 5 seats. I would suggest the elected majority of the board members of this district would probably come from Hawaii Kai or Manoa or Kahala. What will happen to those residents in Kalihi, Mr. Speaker?

"What about the Maui school district? Can you imagine how the voters on Lanai or Molokai will feel when their 5 school district members come from Maui? What about the voters on the Waianae Coast in the Leeward district? As we are well aware, the drawing or redrawing of district boundary lines for election purposes is not as simple as following school district lines. In fact, every 10 years, the US Census Bureau calculates Hawaii's population based on small manageable census blocks. Unfortunately, Mr. Speaker, these census blocks many times

cross community lines, school district lines and school complex lines. It's not that simple.

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

Representative Takai continued, stating:

"Thank you. The Hawaii Labor Relations Board. This may surprise many of us. On page 72, lines 12 to 14, there is a proposed change that will have devastating consequences on labor and collective bargaining issues. How this amendment got into this bill, and how it even fits within scope of the title of this bill are beyond me. Changing the 'Board' to the 'Director of Labor and Industrial Relations' is quite significant. This proposal is under HRS Chapter 89, Collective Bargaining. The Board mentioned on line 13 is the Hawaii Labor Relations Board. In other words, Mr. Speaker, this bill will totally tilt collective bargaining in favor of the Administration. Instead of requiring the Labor Relations Board to investigate and rule on specific individuals, employees, and positions, this bill if approved would give this power to the Labor Director. Can you imagine that?"

"There are many more concerns that I have but I will stop here and request that the Members spend time reading this bill. There are, as the *Star-Bulletin* points out, very significant dots that need to be connected. In fact, Mr. Speaker, this bill is like Swiss cheese because it's full of gaping holes. I agree with Governor Lingle when she during her State of the State Address said, "Now is the time to move forward with great determination because each year of further delay means thousands more students will lack the basic education they need ... This is not about politics or my idea versus your idea. This is about the kids."

"This is about the kids, Mr. Speaker. About my two children, Matthew and Kaila. I, we have much at stake here. Mr. Speaker, the Governor said that, "Politicians all too often think about the next election. Statesmen think about the next generation ... Let us instead be remembered as good statesmen who rose above the sound and the fury to better serve all the people of Hawaii." I totally agree. Let's put policy before politics and let's all be statesmen. I urge our colleagues to vote against this measure.

"Mr. Speaker, just a couple more things. I would like to insert the text of the *Star-Bulletin* article and the editorial into the Journal," and the Chair "so ordered."

Representative Takai continued, stating:

"Thank you. I would also like to insert written additional comments. And finally, I would like the words of the Chairman of the Education Committee to be entered into the Journal as if they were my own."

The Chair responded, stating:

"On the second time when you rise, you may. Because we don't have anything yet, as far as the Chair of Education."

Representative Takai's written remarks are as follows:

"The Birthing of School Districts

The bill on Page 7-8, allows for the creation of new school districts. All a community needs to do is petition their local school board to become a separate school district.

"As an example, if the Pearl City Complex wishes to separate from the Leeward School District, it is the members of the Leeward School District that will approve such a request. If

granted, the entire Pearl City Complex and the affected community will be a separate school district. In other words, what was once seven, will now be eight.

"The bill says that members of this new Pearl City District School Board will be elected at the next general election. As I mentioned earlier, this is not as simple as it really sounds. We will need to convene an apportionment commission to grab census blocks of the areas of our community from which our students live. In Pearl City, this is even more complicated because the Pearl City Complex also includes a significant portion of Waipio Gentry (across from Waiekele) in Waipahu.

"And, by the way, look on page 8, lines 1-3, the decision of the local school boards are final. So, if Molokai wants to become its very own district, and the Maui School District does not approve of such an effort, there is no further options for the people of Molokai, no appeals process, nada."

"Putting Students First – The House Democrats' Education Reform Plan

We are proposing a bold, innovative, fundamental policy shift in the way our schools are funded, operated and administered. Our approach will put resources where it belongs: directly in the schools. Our approach, Putting Students First, will put resources where it belongs: directly into the schools at the school level thereby reducing the bureaucracy and dramatically decentralizing the system. We believe that learning occurs in the classroom, not in the boardroom. We believe that the individual school is the critical key to improve student achievement.

Putting Students First will result in:

- Principals who are free to use their resources, financial and curricular, to run the school.
- Principals who use measurable goals to establish a culture of achievement.
- The presence of master teachers who bring out the best in a faculty.
- Ongoing professional development of the teachers and principals.
- Decision making involving staff, parents, students and community members at the school level.
- Effective and integrated curriculum from K-12 so that students build upon what they've learned.
- Safe and healthy schools.

Putting Students First distributes basic education resources more consistently and fairly on a per-pupil basis across schools, and everyone can see and understand how resources are allocated and spent in each school. Without creating additional layers of bureaucracy, Putting Students First has the following advantages:

- Flexibility.
- Based upon unique learning need of individual students.
- Budgeting is transparent.
- Direct community and teacher involvement.
- Encourages innovation and initiative.
- Majority of resources are given directly to the school.
- Parents can decide where to send their children to school.

Under Putting Students First, each school receives a budget in a dollar amount instead of positions. The principal is ultimately responsible to decide what staff and non-staff items to purchase with these dollars. Under this approach, each school has more room to design and use innovative instructional programs that

match the specific characteristics and needs of its students, parents, and community.

We are moving these ideas forward in HB 2002 HD1, which establishes the Putting Students First initiative. HB 2002 HD1 will:

- 1) Require the Department of Education by the 2006-07 school year to apply a Student Weighted Formula so that funds are based upon the needs of each student in that school.
- 2) Replace the current School/Community-Based Management (SCBM) system and require an Elected School-Site Council to be implemented at each school to ensure that the public plays a critical role in public education.
- 3) Appropriate funds for a Principals' Training Academy to ensure that principals will have the necessary skills to be true educational leaders. The proposal in this paper tasks principals with significant, new leadership responsibilities and challenges. Before any responsible business assigns a task to an employee, it trains the employee for the task. There is a significant staff development piece that needs to be done to prepare principals for this assignment. Two great models are underway in Hawaii - one is the Principals Leadership Academy being operated by a collaboration of funders with support from the Hawaii Business Roundtable. A second is a partnership between the University of Hawaii's College of Education and the Hawaii Association of Independent Schools who have jointly designed a curriculum intended to train leaders for private schools in Hawaii for the future. Both systems could be parts of and serve as models for a redesigned staff development curriculum to be put in place to allow public school leaders to be trained for success.
- 4) Appropriate funds to provide incentives for teachers to become National Board Certified. Teachers who are board certified will serve as master teachers in the schools where they teach.
- 5) Mandate that the various agencies such as DAGS, Budget and Finance, DOH, Attorney General, that impede the autonomy of the Department of Education begin the process of shifting their responsibilities over to the DOE for more efficient and effective management of our schools.
- 6) Ends the micro-management of the governor and legislature in the education system by eliminating all educational programs dictated by law. This will allow each school to decide which programs they desire free from interference from the governor and legislature.

Greater community involvement and decentralization at the school level brings its own challenges. A workable balance of shared power and responsibility needs to be developed. However, Putting Students First puts the focus where it should be: at every school in every community without additional layers of bureaucracy.

Putting Students First decentralizes the system by empowering the individual schools to control their resources in ways that best reflect their needs. Putting Students First gives each school the flexibility to adjust and to adapt to change quickly and with a minimum of bureaucracy. Putting Students First is simply about putting students first."

Honolulu Star-Bulletin, Wednesday, February 18, 2004, page A-1.

"Research fails to back gov on school boards

Lingle says smaller districts will improve student performance, but experts say there is little evidence

By Susan Essoyan

To Gov. Linda Lingle, the problem is clear, and so is the solution.

Students in the largest school districts in the country tend to do poorly on national tests, she says, so break up Hawaii's single district into seven local school boards and results should improve.

But educational researchers contend that it is not so simple. They say there is little evidence that altering district size will raise student achievement.

Policy analyst Jennifer Dounay of the nonpartisan Education Commission of the States says research points to other factors as key to improving student performance: teacher quality, small schools, small classes and a challenging curriculum.

"There's a stronger research link in those areas than there is to school district size," she said. "There are so many variables that can go into a given district that can affect student achievement. I haven't seen any research that says if your district is 1,000 or fewer students, for example, there's going to be a concurrent improvement in student achievement."

The Denver-based commission provides a national exchange of information on educational trends and research.

Hawaii's House Education and Judiciary committees are scheduled to meet tomorrow to decide on the governor's proposed constitutional amendment to set up seven school boards, among other bills. Legislators received widely divergent testimony at their Jan. 30 hearing on breaking up Hawaii's statewide school board.

"Some people have suggested that students in smaller school districts achieve at higher levels than students in larger school districts," said Randy Hitz, dean of the University of Hawaii College of Education, testifying on his own behalf. "There is no solid research to support this claim."

He added, "There is a large body of research indicating the benefits of small schools, but there is no such body of research on small school districts."

Hawaii has one of the largest districts in the country, with 182,000 students, but it also has some of the biggest schools. Hawaii's high schools average 1,468 students, compared with a national average of 752, according to the National Center for Education Statistics. Some local high schools are trying to develop "schools within schools" to give students a more personal experience.

In her testimony, Lingle painted a different picture of the research on district size and test scores.

"The positive impact of school district size has been examined extensively," she told legislators. "Studies of 37 states plus the District of Columbia have all reached the same conclusion. There is a direct connection between smaller school districts and higher student achievement."

Asked later by the Star-Bulletin to identify those studies, Lingle said she was actually referring to just "one study of 37 different states."

"This is a well-known fact that the larger the district, the lower the student achievement," she said. "The existing system has proved incapable of turning around low student achievement. The obvious conclusion is to try a different structure."

The study she cited, "Losing Local Control" by Herbert J. Walberg and Herbert J. Walberg III, appeared in the June-July 1994 issue of *Educational Researcher*. It averaged school district sizes in each state and compared the results to the state's performance on the 1989-1990 math test of the National Assessment of Educational Progress.

The article said the "results suggest that, other things being equal, states with larger average size schools or districts achieve significantly less well on average."

But it went on to call for more research, saying such "effects may depend on the level of education or socioeconomic status of the state," which weren't included in the analysis.

The Hawaii Educational Policy Center testified that there are various reasons why huge urban districts with more than 500,000 students tend to have lower test scores. Such districts also face more poverty, crime, substance abuse, single-parent families and ethnic minorities.

"We cannot say that mega-urban districts 'cause' low achievement any more than we can say that low achievement causes large districts," said Jim Shon, associate director of the center, at the University of Hawaii. "Statistically we have correlation, but not causation."

Lingle referred questions about the data to Laura Thielen, a member of the Board of Education who is working with the governor to promote local school boards. Thielen highlighted research by Robert Bickel and Craig Howley that measured the interaction of poverty, district and school size, and student test scores in five states.

Their study, published in the online Education Policy Analysis Archive in 2000, found that in impoverished areas, student performance was generally higher if districts and schools were small, although not in affluent districts.

"We haven't found a one-to-one effect, but using a multivariable analysis ... large schools in large districts are worse for poorer kids," Thielen said.

"I don't want to get into this huge debate over how accurate the studies are," she added. "There is a lot of data out there and research that shows that this has merit. There is some connection with student achievement."

The seven local districts proposed for Hawaii, ranging from 10,000 to 37,000 students, are not small by national standards. The average size of a U.S. school district is 3,200 students.

Dounay said the trend has been to consolidate rural districts across the United States, and Hawaii will be a rare test case if it decides to break up its district.

"It's a one-of-a-kind thing," she said. "If it does separate into different districts, it will be really interesting to watch to see if it does have an impact."

Honolulu Star-Bulletin, Thursday, February 19, 2004, Editorials, page A-10.

"Debate on school boards misses the target

THE ISSUE: Experts say there is little evidence to support Governor Lingle's contention that smaller districts will improve student performance.

SPLITTING the statewide Board of Education into smaller bodies could make school governance more accessible to the community and result in voters making more informed choices in the election of board members. Whether such restructuring would help student achievement, however, remains equivocal.

In promoting her plan to break up the school board as pivotal to improving public education, Governor Lingle has not yet connected the dots. This complex and consequential undertaking demands that the governor present accurately data that supports her assertions. More importantly, it behooves Lingle and her panel of advocates to give full consideration and weight to research even if it may conflict with her premise. If not, her ambitious and admirable effort to overhaul the education system will suffer and so will Hawaii's children.

Lingle, in testimony to the state Legislature, erred when she said, "Studies of 37 states plus the District of Columbia have all reached the same conclusion" that there is "a direct connection between smaller school districts and higher student achievement." When Star-Bulletin reporter Susan Essoyan asked the governor to identify the studies, Lingle said she was really referring to just one study of 37 states.

That study, published 10 years ago, was not conclusive. Instead, it said that "results suggest" states with larger average size schools or districts "achieve significantly less well," but that more research was needed because such key factors as socioeconomic status had not been part of the survey.

Meanwhile, education experts and other studies have found little evidence that district size influences student performance one way or the other. More significant elements of improvement are good curriculum, smaller schools, smaller class size, qualified teachers and parental involvement.

School board member Laura Thielen, an advocate for multiple school boards and a member of the governor's education reform committee, acknowledges that the panel has not found "a one-to-one effect" between small districts and student achievement. One study she cites has found that in impoverished areas, students did better if both districts and schools were small, but curiously, this did not hold true in affluent districts. In addition, the seven districts the governor proposes would still contain between 10,000 to 37,000 students, far more than the national average of 3,200 students per district.

Thielen says debating "how accurate" the information presented by the governor deflects attention from the issue. Be that as it may, accurate data is required if the public is to decide the future of public education. Further, the political debate about school districts and multiple boards should take a back seat to making changes that we know directly affect student performance. The question should be less about who is right, and more about what is right."

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

"Mr. Speaker, I rise in opposition. Mr. Speaker, some people say it's not about studies that show that local elected school boards won't improve academic achievement in our schools. Other people say, Mr. Speaker, it's not about whether local school boards will increase cost, and add an additional layer of bureaucracy to our State school system. And even others, Mr.

Speaker, say it's not about whether we as Legislators believe the proposal has merit and will achieve its stated and promised goals. They say, Mr. Speaker, it's simply about letting the people decide. It sound beautiful, but Mr. Speaker, the notion of letting the people decide is *okole* backwards under our Constitution which has guided all of us since Statehood.

"Our Constitution is modeled after the most famous political document in all the world in my view, the United States Constitution. Hawaii's Constitution requires, if you look at Article XIII, Section 3, that to do a constitutional amendment, it first must be approved by the Legislature. And then second, by the public. The founders of our great Country, and those who wrote our State Constitution believed that to protect our democratic process, the Legislature is a critical part of the process of amending the Constitution. And each Member here, Mr. Speaker, owes a duty in voting to decide on his or her own, what are the merits of the proposed amendment; whether it's designed to meet the goals stated, and whether it's in the best public interest. To have it the other way around, Mr. Speaker, our federal and State Constitutions would have been written so that the Executive would recommend an amendment and pass it directly to the people to let them decide. But our Constitutions, both federal and State are not written that way.

"Should a determination be made by the Legislature, that the amendment is in the best interest of people, it is sent to the people and they in turn make a separate determination, an independent determination, on their own as to whether the amendment is in their best interest and has merit. And Mr. Speaker, the people may decide to vote it down if they believe it's not in their best interest. And when you think about it, it is really a truly perfect system.

"I think our founders on the federal level were concerned about the power of the king. They didn't trust government. But they also were worried about tyranny of the people. And so they made sure there was a balance between the two. Government had to decide whether it had merit and then had to pass it on to the people to either confirm it or vote it down. And that's how the system should work. And that's how we should follow the procedure today.

"It violates our State Constitution for the Governor and her assistants, some of them who are lawyers and should know better, to suggest that the Members of this legislative body should ignore their own duties to determine the merits of the Governor's school reform proposal and just punt the issue to let the people decide. To do so, Mr. Speaker, would be an abrogation of our constitutional duties as legislators. And therefore, we must take this very seriously. And I do encourage our Members to vote this amendment down. Thank you."

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

"Thank you, Mr. Speaker. I wish to indicate my strong opposition to this measure and ask that the words of the Higher Education Chair, as well as the Representative from Manoa be incorporated as my own. And I would like permission to submit written comments for insertion into the Journal," and the Chair "so ordered."

Representative Kanoho's written remarks are as follows:

"I write in strong opposition to HB 2332 HD1, because of its flawed focus and presumption that the establishment of seven elected school boards will reform and improve Hawaii's educational system.

"Quite to the contrary, HB 2332 would create a seven-headed bureaucratic monster which would take education in seven different directions. Elimination of the centralized Department of Education as called for in this bill, means re-creation of seven independent administrative units resulting in unnecessary duplication, redundancy, and operational inefficiencies. With its proposed authority, the seven school boards will only serve to micro-manage the schools and cast unimaginable frustration and anxiety on the schools and particularly on its principals.

"We simply cannot and must not allow Hawaii's public educational system to be subjected to such horrible fate of failure.

"The national trend has shown a widespread transition from local to centralized school boards with a coordinating governing structure. The clear message from across the country is that "Local school boards with independent administrative units do not work!"

"There is complete arguments that Hawaii's school system, as evidenced by comparative scholastic performance, can and must be improved.

"This can be done by providing more resources directly to the classroom, empowering principals and teachers, increasing parental involvement or in its absence, providing additional guidance, counseling and tutoring as may be required. These are the primary ingredients towards "reform and improvement", along with approximately designed curriculum, textbooks, computers and a safe school environment conducive to learning.

"Seven elected school boards—each with given authority to establish additional, independent board of equal status—is most definitely not the solution!"

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

"Thank you, Mr. Speaker. In support. You know, Mr. Speaker, we've heard this. We can wrestle with this data all we want. But the fact is that it's looking for the 'silver bullet' or the perfect study regarding whether or not local school boards, their size, whether or not it involves actual connection to increase student achievement is off the point. And it really does.

"I hear about spin and things like that. I think that's irrelevant, Mr. Speaker. I think that's the spin. The fact is that schools are complex organizations. And in fact, there are not very many studies that actually ask that question. Whether or not there is a direct link between student achievement and comparing it to sizes of school boards. The one report that looked at 37 states, that was one of the few, if any. I actually have not read any others, except Dr. Ouchi's book that actually cited a few that mentioned them but they were very, very much ... They were focusing on other things.

"These studies, they were peripheral questions to primary questions like whether or not class size was important or whether or not those other things were important. So I think it is unfair to try to judge this proposal purely on the fact, whether or not there's lots of information that points to this. Because the fact is there is none that actually ask that question of whether or not local school board size has lots of relevance to test scores. And in fact, because there's not a lot of uniformity across the states that use the same tests, we finally have, it's only been recently that we've been able to answer that question using the national NAEP examination that actually provides this that asks all the states to take this test. So finally we have one test that we can compare across all of the states. And so

this study, even though it's been remarked as being old, the way that these things work, you don't change test scores over a year or two. In fact it takes quite a while. If you look at SAT scores, they kind of 'lolly-gag' along, plus or minus one point on an 800 point scale. So they don't show dramatic achievement or change.

"What I want to propose, Mr. Speaker, is that, this idea, this focus on the wrong thing is inappropriate. It is a political question. And the question I think should be reframed and should be examined in another light. Even though the few studies suggest that there is a correlation between smaller school boards and higher test scores. Now that's what's true. There is a correlation. Now whether or not there's a causal connection, I don't think any scientist, anybody in their right mind can absolutely say yes, there is causal connection. But there is a correlation, okay? And that's a very well-defined. It's just that, a correlation.

"Now, the question I think we should ask, is I was just fascinated Mr. Speaker, is I've actually lived in other different places and as I was actually fascinated to find out we had a statewide school board. Now we're an island state and I cannot believe, my roots are from the Neighbor Islands so even though I was born and raised here, my roots, my family roots are from the Neighbor Island. And I think that I'm just fascinated when I hear that Neighbor Islanders, the way they feel about the way we do it here. And the point is that, even Mililani, and I was also pleasantly surprised now that I gained a precinct from Waipahu, they're as fiercely loyal and independent and proud about their community as Mililani is. As Kauai is. As are Molokai, Lanai, all of our island counties, our Neighbor Islands.

"So I think the question is really, the fundamental question is whether or not we should have elected school boards that are more closely tied, more closely responsive, more accountable to a local area. And our proposal means to answer just that. There's the feeling that, that if given enough time, our big school system could move towards success. And that's I think is inherently the problem. If we had smaller school systems, I think we would be much more agile, much less fearsome of the proposals of say for example the requirements of No Child Left Behind. And therefore, I think that that's what compels us to consider this local elected school system.

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

Representative Ontai continued, stating:

"I would like to comment on some of the major points, and there are valid fears. But I feel that this proposal answers those fears. It makes an excellent attempt to answer the fears. One of the fears is that there's going to be great disparity of pay or great disparity of resources throughout our State system. The way that it's solved Mr. Speaker, is that it is still going to be State funding. It's not that say a Central Oahu school board is going to be competing with funds differently, in a different manner from say, the Maui school board. The Maui school board and the Central Oahu school board or the Honolulu district school board are going to get the funding the same way.

"In the proposal, we propose a weighted student formula. Sure we haven't worked out all the details about the specific amounts at each child will receive, but the child wherever he or she may be in the system, will determine how much that system will get. And so that is what's going to make it fair. Not because Honolulu district is closer and they're going to have the best lobbyists, they're going to spend a lot of money to lobby us for more money. It's the weighted student formula that's going to make that, going to keep the system equitable. And in fact

because of the way weights are, we expect to see that the poorer districts will get much more money. The districts with a lot more special education children for example will get lots more money. That's the way the weighted student formula is designed. It's designed to make sure that the children are what the focus is, and not so much not whether or not that district has lots of multi-million dollar homes. And that's where I think the key part of this proposal, when taken in its entirety will be very successful.

"And finally, Mr. Speaker, I want to say this. It's just mind boggling to me. I think the question that we should ask ourselves on, whether or not we should even consider local elected school boards is this. If you are looking for either student achievement or more responsiveness or accountability, or just a word or even parent participation, all of those things can be answered with a local elected school board. And the question I think, if you want to put it in numbers is, do you think a 14- or 17-member school board supervising 280 schools, do you think that is superior to one where you might have 5 members overseeing 40 or less school boards. To me the mathematics, there's no question to me, which is a superior system. And the funding will make it fair.

"I think it's going to be exciting Mr. Speaker, to see these school districts excel and attempt to solve our challenges in education. Thank you, Mr. Speaker. I recommend that all our Members vote yes."

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

"Thank you, Mr. Speaker. I rise in support of this measure. No matter how we cut this, it is going to come down to what some may call a trite phrase: Let the people decide. An earlier speaker said that it was perhaps the tyranny of the people. And that perhaps this measure is punting on the issue. I wish politics didn't enter to this but this is the nature of our business, Mr. Speaker. And we've learned hopefully to be mature in the areas of politics and to deal with this sort of issue responsibly and maturely. The fact of the matter is we just punted on four constitutional amendments. We just let the people decide on four other constitutional amendments. The difference with this constitutional amendment is that of course it comes from the Governor's Office. So of course politics is playing a part here, but such is the nature of our business.

"For me to support this measure it really comes down to a personal encounter that I've had with the public school system. I appreciated the fact that I went to Kamiloiki School, Niu Valley Intermediate School, and then I graduated from Kaiser High School. I came out of the public schools. I appreciate them very much. If I may, Mr. Speaker, I'd like to relate to you a story about Kaiser High School where I did wrestle back in the old days. And I have had the privilege to go back as a volunteer and to coach the wrestling as an assistant coach.

"I remember my first election. The election was coming up and of course I had a debate regarding a number of issues with education. And my opponent was of course a DOE employee. And one of the questions regarding school maintenance and repair. And there I was in the wrestling room and I was pondering this question, which fortunately was given to me before hand. And I was thinking about school maintenance and repair and there I was in the wrestling room that I had wrestled in, and practiced in, and had all those work ethics pounded into my head. And the great coaches and volunteers that I had appreciated so much. And I was trying to do the same for the Committee.

"I began to notice that the fluorescent lights above the wrestling room had gone out. A number of them had gone out. And so I decided to count them. And of the 27 fluorescent lights, 9 of them had burnt out. I thought, well this is just a wrestling room but still it would be important to have the lights working. In one corner of the room where the light had been burnt, I could smell smoke smoldering. I thought, well that's a safety problem. And so I really didn't have a detailed answer for the debate but I said that I really think that we should make it a priority to fix, to repair and maintain our schools.

"Well the election came and went. And I was happy to be victorious in that. And I went back up to the wrestling room and lo and behold, Mr. Speaker, there were electricians there. And I thought to myself, this is the best job there is. I just mentioned the school maintenance and repair in the wrestling room in a passing conversation and one of my answers to debate question. And now there are electricians in here fixing. And I thought, this is the best job in the world. You just say something and it gets done. I thought they were there to fix the lights. But you see Mr. Speaker, they weren't there to fix the lights. They were actually there to install metal outlet boxes.

"See in the wrestling room we had padded walls because the kids were bouncing off the walls. And so the walls are padded but now these electricians, they weren't fixing the lights Mr. Speaker. They were installing electric outlet boxes that were about 2 inches by 4 inches, squared steel corners right at about 4 feet high, adjacent to the padded wall. They didn't fix the lights. They installed electrical boxes. When I asked why, they said it was for the computers. Computers. That room never had computers and it never will have computers. And it for 20 years plus, it's had wrestling mats and padded walls.

"You see the system does not allow for the decisions to be made that are proper for the school to be made at the school level. It just doesn't work, Mr. Speaker. If there was a local elected school board, they would never create a health hazard for the wrestling kids at Kaiser High School. Unfortunately, the decision was made too far from home, without the proper level of knowledge to make the right decision. So this is why we need to change the system from without. It can't be one of self-reinvention. It can't be one of tinkering. I know the Governor in her speech said that we shouldn't tinker with the system."

The Chair called upon Representative Finnegan, stating:

"Representative Finnegan. Would you yield your time for Representative Stonebraker?"

Representative Stonebraker: "I think she might like to speak."

Speaker Say: "Okay. Representative Bukoski."

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

Representative Stonebraker continued, stating:

"Thank you, Representative. As I began, Mr. Speaker, I said that this issue becomes politicized. I wish it didn't, but it does. I would beg the Members of this august Body to think this through with your own mind, and with your own heart. We just passed four constitutional amendments. I voted in favor of three of them, but I voted against one of them because I was convinced by one my colleagues on this floor that it was the right thing to do.

"Mr. Speaker, I alluded to the fact that in the business of politics many of the decision are made before the Committee

even begins, before the session begins. But I'm praying and I'm hoping that this Body makes a decision with their minds and with their hearts to give this measure to the people as we have with four other constitutional amendments. Give it a fair hearing. If you call it a punt, I don't call it a punt, I call it a pass. And if you call it the tyranny of the people, I say let the tyranny begin.

"For too long the people of this great State have been held out and shut out of the political process. And in the mean time they have been frustrated with issues that I have explained to you, Mr. Speaker, about the wrestling room at Kaiser High School. I say, let the tyranny begin. Let the people decide."

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

"Thank you, Mr. Speaker. I would like to register my no vote on this measure. And I believe I stated my reasons on a previous bill. But I would like ask that the official position of the Hawaii State Student Council be entered into the Journal in opposition, as well as the words of the principal at Farrington High School also opposing this measure and others like them."

Representative Arakaki submitted the following written remarks:

"Testimony of Catherine Payne, Principal of Farrington High School is requested to be entered into the Journal in opposition of HB 2332.

"I am submitting testimony in opposition to the proposed constitutional change that would eliminate the Department of Education and divide our educational system into seven local districts. I am concerned that we are considering changing the state constitution with no evidence that such a change would result in an improved education system for the public school students in Hawaii. The presumption that the seven new districts would result in more local control is questionable, as the districts would span multiple communities. It is unlikely that the board members would have a thorough understanding of the different communities they represent, and each school would need to spend a great deal of time educating the newly elected board members about their individual school needs. The nearly 60 schools in Honolulu District span from Hawaii Kai to Kalihi. The communities in this district have diverse populations and needs. If local involvement in our schools is truly the goal, then we need to consider how we can create a system that invites the citizens of each school to participate in the redesign of their local schools.

"While the model is being promoted as one that "would make us "like the mainland", it would, in fact, be very different. There are state educational agencies in all the other 49 states. Most are led by a chief school officer or superintendent. The local boards in the other states have taxing and other financial authority which is not being given to the proposed Hawaii boards. Our boards will be left to micro manage through a plethora of policies and inevitable interference in personnel matters. It is ludicrous to believe that principals will have any real control over their schools. What we will have is accountability for the decisions of all the new politicians on our school boards.

"The proposed new collection of school boards will add another external layer of interference between the classroom and a system of necessary support for our schools. The transition to this proposed new management model would be a huge distraction from the reform efforts that are currently well underway in all of our schools.

"The attention that is being directed upon our public schools is unlike anything I have known in my nearly thirty years with the Department of Education. We have an opportunity to design a system that supports collaboration at the school level while maintaining coherence and continuity for students throughout our state. It is important that we make thoughtful deliberate changes that are supported by research on the best practices related to student achievement. Seven more political groups imposing additional agendas on the schools are unlikely to help us make the necessary changes in the relationships between teachers and students in our classrooms. Thank you."

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

"Thank you, Mr. Speaker. In support. As a continuation of my long standing commitment, I support this work in progress. I campaign for local school boards in my first election in 1994 as my primary issue. And I've campaigned for local school boards in every election since then. I voted for local school boards on this floor two years ago.

"Mr. Speaker, I would like to ask for a roll call vote at the appropriate time."

At this time, Representative Halford requested a roll call vote.

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

"Thank you very much, Mr. Speaker. In support. I appreciated the speech of the Chair of the Higher Education Committee. He went over some of the points on the bill. I think however, he missed the key points in the bill.

"The first and really the most important lines in this entire bill are found on page 12, lines 21 and 22. At least 90% of the funds shall be expended by the individual schools for school operations. This is what this bill is at its heart about. It's spending on education be done at the school, by the principal at the school. And backing up this important line that puts 90% of the funds, and we all know that the power to control what happens lies with the money. And putting the money in the hands of the schools and the hands of the principals is what's really going to make a difference on the way our local schools perform. To back this up, we have on page 18, lines 17 and 18, each local school board may negotiate and enter into performance-based contract with the principal. And on lines 21 and 22, principals shall be appointed through performance-based contracts for a two-year term. So these are the key elements of what will make the new education system in Hawaii work.

"First, 90% of the money to the schools. Second, principals tied to performance. And third, those performance-based contracts which are contracts that are negotiated between the principal and the school board. Meaning that the principal has as much say as any other individual on how those contracts are worded. Those are the key elements that will make this new system work.

"And finally, on page 20, in lines 19 through 22, performance-based contracts offered to principals pursuant to this part shall include placing the principal on a 12-month salary schedule and a substantial salary increase. The money going to pay principals pay more is also a key element of what will make the principals the key decision maker at the school.

"And what we found out, looking throughout systems in the United States is that what works best is having the people that are closest to the students, the professionals closest to the

students making the decisions. The principal, principal under a contract, building a team, working with the teachers at that school. The teachers being able to knock on the door of the principal and talk to the person who controls 90% of the budget. Talk to the person who has the power to make things happen. And the principal building a team with the teachers that will make the principal a strong performer. Bringing achievement to the students at that school. Nothing works better than putting the power and the money in the hands of the leader of each individual school. That's the system that works.

"And once you've established that basic point, that putting the principals in charge and giving them the resources, is the system we're going to put in place in Hawaii to help the students of Hawaii, then you later ask the question, what kind of support system best works for the principals. And I would suggest the support system that works best is a Superintendent who is worrying and dealing with no more than 40 principals. We can't have a Superintendent dealing with 250 principals. It's just not going to work. It has to be a Superintendent who has a span of control of 40 or less. And if it's smaller, that works even better. Get it down to 20, get it down 15. Anyway, that can be decided in the future. But we've got to get away from the idea, if we're going to put the principals in charge of each school, they can't possibly be reporting to the Superintendent that has 256 schools under her control. It's just not going to work.

"Somebody referred to *okole* backwards. It's *okole* backwards to run a system that way. You start with the school. You work back from the school. You build a support system for the school. That's what we need. That's what this thoughtful bill provides. And we're so fortunate to be able to vote on it here tonight. Thank you, Mr. Speaker."

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

"I rise in opposition. Mr. Speaker, according to the Department of Education's budget, 97 cents of every education dollar is spent on school related costs, not bureaucracy. Only 3% is spent on State and district administration. And this is already happening without 7 boards. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In support. I've heard again and again and again about no data being delivered. I have here a document that was delivered February 2nd to all the Members of the House Committees on Education and Judiciary, which lists 42 references of the studies that were discussed. Some of the data shows, and here's data from the National Assessment of Education Progress, NAEP, which is the only test that measures public school achievement across the nation. At the time of the study, 37 states and DC participated in the test. It shows as states' average size increases, student achievement declines. As states' average district size increases, student achievement declines. As states' share of the total education budget increases, student achievement declines. There is no relationship between the states' per pupil expenditure and student achievement. Money doesn't make the difference. School size does according to this and district size.

"Here's another study, 17 states. The studies controlled for influence of minority population and the variation of per pupil expenditures between states. The findings are as if all of the states or the districts have the same average demographics and spent the same average amount per pupil on education. And again it shows that the deciding factor is not the money spent, but the size of the district.

"Now here's one of the charts. All of you got a copy of this. On this side, is achievement. On this side, on the bottom, is district size. Here's Hawaii. Just above DC.

"Mr. Speaker, here's another set of information that was delivered to all the Members. This lists 38 references, different from the 42 references in the first document. 38 references. They are not the Heritage Foundation. You can look them up. These are not conservative groups.

"Large school districts have a negative affect on student achievement, especially for students from low income families. There's a strong consistent negative correlation between district size and student achievement in low-income populations. The higher the level of poverty in a community served by a school, the more damage larger schools and larger school districts inflict on student achievement. The smaller the district, the higher the achievement. Small districts maintain a cohesive core curriculum, taken by most students and associated with higher student achievement. Smaller districts can adapt to local preferences and conditions and strengthen ties among schools and community, which endues learning. Oh by the way, that one is from Walberg, which was so quoted on the floor here earlier.

"National data shows that as school districts increase in size, they become more inefficient. The number of individual schools declines. The schools become larger. All of which has a negative effect upon student achievement. I haven't finished the first page, Mr. Speaker. There's six pages. It's jam-packed with that information. I believe all of you have received copies.

"School district consolidation is limited to extremely small districts. Fifty years ago, the average school district had 217 students. Today, the average school district size is about 3,000 students. Consolidation usually combines two extremely small districts or an extremely small district with a larger one. Most districts stop consolidating because studies show that large school districts have lower student achievement. It's another study.

"We've heard talk in previous committees about New York and why it's consolidating. And it is consolidating. And they've explained the reason they're doing it is because they have corruption in their school system and they want to rid it. So that's why the state has taken control. So please don't mix apples and oranges. We only want apples for our teachers. And we want Apple computers for our students. We don't want to mess around here any longer. We know this system is broken."

The Chair interrupted, stating:

"Representative Moses. Representative Ching, will you yield your 5 minutes? Will anyone yield their 5 minutes? Representative Blundell?"

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

Representative Moses continued, stating:

"Thank you, Representative. The point is Mr. Speaker, we've heard even from our Education Chairs about the current system. We know the system doesn't work. What we're debating here is whether or not we should try something that has worked everywhere it's been tried. Every single place that it's ever been tried it has worked. Why are we so afraid to try something that we know has worked everywhere else? Thank you, Mr. Speaker."

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

"I rise in opposition to this measure. I would like to incorporate the words of the Chair of the Higher Education Committee as my own," and the Chair "so ordered." (By reference only.)

Representative Saiki continued, stating:

"And I have brief comments in opposition. As you know, Mr. Speaker, proponents of this measure have cited to a single study that was published by a think-tank called the Heartland Institute in support of their contention ..."

Representative Halford rose to a point of order, stating:

"Point of order. The speaker moved for the adoption of this measure."

The Chair responded, stating:

"No. He is in opposition."

Representative Halford: "But he originally moved for the adoption of this measure."

Speaker Say: "And now he is speaking in opposition. Okay? He was just making the motion to pass Second Reading and be referred to the Committee on Finance. Please proceed, Representative Saiki."

Representative Saiki continued, stating:

"Thank you, Mr. Speaker. Proponents have referred to a single study published by the Heartland Institute in support of their contention that school district size will increase student achievement. As you know, Mr. Speaker, there are hundreds, if not thousands, of think-tanks throughout the United States and throughout the world such as the Heartland Institute. And before we embrace the work or the findings of any such institute or think-tank, we should really look at its track record and the credibility of its prior work. And I thought it would be interesting to see what the Heartland Institute has done in the past in addition to this study on school achievement. And it was interesting to find that they have made some conclusions and findings in other areas outside of education. I thought it would be interesting to share some of these with the Members this evening.

"The Heartland Institute has concluded in a study that the most reliable temperature data does not show a global warming trend.

"The Heartland Institute has found that it is not advantageous to import drugs from Canada to bring price benefits to consumers."

Representative Fox rose to a point of order, stating:

"Point of order, Mr. Speaker. I think we're ranging a bit away from education. I think each of the points he's raising can be debated. Why don't we stick to education?"

Representative Saiki responded, stating:

"Mr. Speaker, the proponents of this measure have made the credibility of the Heartland Institute a basis for their support for this measure. And therefore the credibility of this Institute is at issue in this floor debate."

The Chair responded, stating:

"Okay, please proceed. The Chair will allow you."

Representative Saiki continued, stating:

"The Heartland Institute has also found that there is no ozone depletion over the Arctic.

"The Heartland Institute ..."

Representative Fox rose to a point of order, stating:

"Point of order, Mr. Speaker. These propositions are all debatable. He seems to offer them as if there's some, you know, vast proof that something is, you know, one way or another. But these are all debatable points."

Representative B. Oshiro rose to a point of order, stating:

"Point of order, Mr. Speaker. You've already made your ruling. He's raising the same point again."

The Chair responded, stating:

"Representative Fox, let the Majority Leader continue on his debate at this period in time. Because a reference was made to the ... What was that Institute?"

Representative Saiki continued, stating:

"The Heartland Institute, Mr. Speaker. I just have a couple of other examples."

The Chair recognized Representative Moses, stating:

"Representative Moses, for what purpose do you rise?"

Representative Moses responded, stating:

"Well, a point of personal privilege. I did not make any reference to the Heartland Institute. I referenced 47 and 38 other references, and none of them are the Heartland Institute, Mr. Speaker. So he must be referring to somebody else but I have just debated ..."

Speaker Say: "Well the reference was made. I did not share with anyone here who made that statement. But it was brought to this floor as a vehicle to say a study that was conducted showed that there was a relationship. That smaller school districts improve student scores, or local boards improve student performance."

Representative Moses: "That's correct, Mr. Speaker. And I just made those references from sources other than the Heartland Institute."

Speaker Say: "So I am allowing it. I'm not questioning the Representative from Makakilo."

Representative Saiki: "For edification, the Representative from Makakilo referenced a chart called, Figure 1: Achievement in District Size, and that figure is contained in the study published by the Heartland Institute entitled, *Losing Local Control of Education*. It is called Figure 1 and is attached to the report."

Speaker Say: "So I stand corrected as the Speaker of this House. Please proceed, Representative Saiki."

Representative Saiki continued, stating:

"The other two findings of the Institute are as follows. The Heartland Institute does not believe that the lawsuits that were filed against the tobacco industry a few years ago by the states were with merit. They believed they were without merit."

The Chair interjected, stating:

"Representative Saiki, can you confine your remarks to the bill that is before us at this point, since it is late."

Representative Saiki continued, stating:

"One more point, Mr. Speaker. The other point is, there is no relationship between the number of privately owned guns and the amount of violent crime in the United States.

"So Mr. Speaker, I think that before we embrace the study of any think-tank in particular, we should really look to see if it is credible in the first place. Thank you."

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

"Mr. Speaker, I rise in strong opposition to this measure. Mr. Speaker, as the Chair of your Committee on Labor and Public Employment, I need to point some concerns earlier touched upon by the Chair of the Higher Education Committee. I did not realize that the current system by which certain grievances end up to be resolved before the Hawaii Labor Relations Board was deleted in this particular draft submitted by the Governor.

"Mr. Speaker, in short, I believe that particular provision, if it were to be adopted, would run afoul of any notion of civil service and any notion of bargaining under Chapter 89. The Director of the Department of Labor Industrial Relations should not be the final arbiter in these types of disputes or controversies. He administers oversight over that particular Board, which is an administratively attached agency to the Department. I find that a serious problem with this bill.

"I also like to touch upon several others that I found really challenges how we look at our government structure, and especially the notion of local voice, local control. Because when I went through this bill and started to look at the governance structure that's established in this bill, take a look at page 54, Section 10. Section 10 basically sets out the structure of our Executive Branch, Mr. Speaker, under Chapter 26-4, Structure of Government. And it states, "Under the supervision of the governor, all executive and administrative offices, departments and instrumentalities of the state government and the respective functions, powers, and duties shall be allocated among and within the following principle departments that are hereby established." You have your 13 Departments that are commonly known of today: Human Resources, DAGS, the Attorney General's Office, Budget and Finance, Department of Commerce and Consumer Affairs. But because under this scheme of local control, local voice, you eliminate the Department of Education, and in its place you have the Public Education System.

"So what is this Public Education System that stands as another department controlled by the Governor? Well on page 56, Section 11, it states: Public Education System. The public education system shall not be headed by a single executive but shall consist of the Education Standards and Accountability Commission, local school boards, and new century charter schools. That leaves me to believe, Mr. Speaker, that all these so-called locally selected, locally controlled boards ... To the contrary, not locally controlled. To the contrary, all centralized as a department under the Governor. People need to know that. So when they really look at this bill and they really consider

local school boards, it doesn't fit. The rhetoric doesn't fit the reality in the bill as proposed in this bill.

"Mr. Speaker, I would like to comment further and just a little bit more on what happens to our principals. The so-called CEOs of our schools. The so-called leaders who are the most important components of our schools. Pages 18 and 19, 20 and 21. Well for starters on page 21, item pp, I hope principals are listening in right now. Notwithstanding any law to the contrary including Chapter 89, principals and vice principals shall retain any tenure they have earned as teachers but not tenure earned as principals and vice principals. In other words Mr. Speaker, what this does is that for any of our current standing principals, who may have some seniority, some experience, some credentials, some leadership abilities ..."

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

Representative M. Oshiro continued, stating:

"Thank you, Representative Hamakawa. For those principals who are being retained today, like my own principal, Norman Minehira, from Leilehua High School, who's one of our top three principals of high schools in our nation. All his years as a dedicated instructor, as a principal of our public schools, will not mean anything under this scheme.

"Look back on page 20, and I believe the Minority Leader mentioned the so-called performance based contracts offered to principals. Mr. Speaker, I think most of us here have some appreciation for performance-based contracts. In the House, we have a performance-based contract based on our ability, our productivity, every two years by electorate. The same lies here for these principals. But get this, Mr. Speaker. There's no definition of what is the performance base. And did you know, Mr. Speaker, looking through this bill, that will be decided on an individual basis at the individual school board level. Can you imagine that Mr. Speaker? Two-year contracts, performance based, 35 different contracts. It's tied in to this. And it's some sort of inducement to participate in this system without any tenure. A substantial salary increase to reflect the new demands and greater accountability placed upon principals as a result of the enactment of this part. Mr. Speaker, that's a great idea, but let me share this with you.

"When the Labor and Education Committees had a public hearing on this measure. I asked the Administration's agents at that meeting, I think it was maybe was the DCCA Director or the Governor's Policy Analyst, what they meant by 'substantial salary increase'. They could not provide me an answer. That disappointed me. Equally disappointing, Mr. Speaker, when I asked the question, 'This is this supposed to begin July 1, 2006. Is this substantial pay increase in your budget plan?' They couldn't answer that, Mr. Speaker."

Representative Bukoski rose, stating:

"Will the current speaker yield to a question?"

Speaker Say: "Representative Marcus Oshiro, will you yield to a question?"

Representative M. Oshiro: "It depends on the question."

Speaker Say: "It depends on the question."

Representative Bukoski: "You want me to ask it first?"

Speaker Say: "You can ask it to me."

Representative Bukoski: "And let him decide."

At 11:19 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:22 o'clock p.m.

At this time, the Chair stated:

"Prior to the recess, the Chair did recognize Representative Bukoski as far as asking the Chair for a question and we called a recess. Representative Bukoski."

Representative Bukoski rose, stating:

"Yes, Mr. Speaker. I just want to clarify for the rest of my colleagues who weren't privileged to the conversation we had. My question to the Chair of Labor and Industrial Relations is if he had an opportunity in his Committee, because I understand that this bill was before Education, JUD, and Labor, and if he had a chance in his Committee to offer the amendments that he's now speaking of, or fix the concerns that he's now speaking of on the floor.

"And as I read the Committee Report, it says that, your Committees, which I'm assuming is all three, and having all the Chairmen confer, I guess they all agree on this. That your Committees have amended this bill, and then it goes to say, to facilitate further discussion. So I guess I'm a little confused as to if he had the chance to amend it in his Committee and he passed it out as is with amendments. And if they're truly, sincerely trying to facilitate further discussion, why would they be voting this measure down and opposing it tonight. And I guess my answer was yes, that he did have a chance. Thank you, Mr. Speaker."

The Chair then stated:

"At this time, the Chair would like to recommend to both parties, that we have just one more debate from each side. Is that okay? Minority Leader, Representative Fox, is that okay?"

At 11:25 o'clock p.m., Representative Hamakawa requested a recess, and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:26 o'clock p.m.

At this time, the Chair stated:

"The time is getting late and please, I beg for your indulgence. I did forget that the Representative from Wahiawa had the floor when he was asked the question by the Representative from Maui. So the Chair would like to recognize, Representative Marcus Oshiro, and then we will have two more debates on the pros and cons, from both sides. Is that correct Representative Fox? Okay, Representative Marcus Oshiro, you may proceed. You've got 2 minutes."

Representative M. Oshiro continued, stating:

"Thank you, Mr. Speaker. Just to close up again. This is nothing about local control, local voice. To the contrary, this is all about single control by a single person, and that's the Governor.

"Mr. Speaker, finally, if you look at the constitutional amendment that is proposed to be printed on the ballot and

given to the people of Hawaii, it says: Shall the existing public school system be reformed by replacing the existing Department and Board of Education with blank elected local school boards? I think it should be changed. It should be reading: Shall the existing public education system be deformed by replacing the existing Departments and Board of Education with elected local school boards.

"Mr. Speaker, I speak in strong condemnation of this bill and all the antics that surround this. And I will be voting no, against it with a clear conscience. Thank you."

Representative Meyer rose, stating:

"Mr. Speaker, is it appropriate to have applause here?"

The Chair then stated:

"Yes. This is basically for the audience who is in the gallery. We don't want to have this type of applause as far as interrupting the debate that is on this floor. So please proceed, Representative Finnegan."

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

"Thank you, Mr. Speaker. I speak in favor of this bill. I am here today because I am a parent that struggled with the decision to send my child to a public school and tutoring, or work harder and earn more money and send her to a private school, or to stay home and home school. I decided to run for office, send my child to a public charter school, and earn less money.

"I believe that we can all agree that the weighted student formula will get more money to the school level for decision making. The weighted student formula is based on putting emphasis on the school level before you put emphasis on the central bureaucracy. How would that happen if the very Board and Department that currently exist only knows and believes in the current statewide Board and Department of Education? It's like trying to change someone's religious tenants. It's extremely difficult to do.

"I believe in the Bill Ouchi quote that states, "... if you focus on decentralization, you will get decentralization with low student achievement." This is why we need local school boards and the weighted student formula together.

"I believe that our Superintendent can affect change with the weighted student formula alone. But I believe it would be an extremely difficult and very slow process because of the pressures that I've observed that surround her, like the Board, like legislators, like labor. You know, these pressures around her, they want to keep thing moving at their pace, not the classroom's pace, not the school's pace. Mr. Speaker, I can't wait. Students, other parents, our communities, our schools, our businesses, our State cannot wait.

"Finally, let our classroom professionals, at the school level, move toward smaller class sizes and curriculum and all the other things that are proven to improve student achievement by local school boards. Thank you."

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

"Thank you very much, Mr. Speaker. This issue of local school boards in schools is very close to my heart. I am in favor of the measure. My grandmother taught at Puunene, Maui. She was a public school teacher. My mother began at Kalaukua, and went on to teach at Jarrett in the 70s."

Representative Lee rose to a point of order, stating:

"Mr. Speaker, point of order. Will the speaker please address you."

Representative Ching continued, stating:

"Oh I'm sorry, thank you. Mr. Speaker, and she ended retiring from Stevenson Intermediate. My parents graduated from Roosevelt High School and they worked very hard so that my sister, my brother, and I, on scholarship, could attend Punahou. And I have the privilege, the joy and the honor to teach at Maemae for ten years. So I spent time in the public school system and I spent time at Punahou.

"I hear a lot being said about great schools, and about studies. But what hurts me is that we are not listening to our own community leaders who desperately want to help. It hurts me that one of my constituents works at Safeway, and when I went there at 3 a.m. one night, one morning, I guess, and he tells me, he's working a third job so that his child can attend private school. And I suspect that when they tell me that we have more children going to private school in this State than almost any state in the union, and I think about the wages we pay, and I wonder where that money is coming from.

"And I wonder about some of the Members in the Legislature who send their children to private school and they speak on the DOE. And they speak on public education. That's great, you send your child to private school. I went to private school. And when I spoke to a teacher who used to be with the public school, who took, according to him, a pay cut but went to teach at Punahou. He said, 'You know what's the biggest difference?' We're talking about school boards. We're talking about this. We're talking that. He says, 'I noticed a change in attitude. There's a real difference in the attitude.' He didn't mention the buildings, which I know one of our testifiers said, 'Oh Punahou gets money. They get the Case Foundation. They get what-not. They get all these resources. They get these nice buildings.' But according to this man, who taught at Punahou, he said it was the attitude that seemed to be the biggest difference, not the money. It was the attitude of the kids and it was the attitude of the teachers. And I submit that the teachers are the same from the public schools. Because I know I have good schools in my district. And I submit that the kids are the same from the public school because I know my Maemae kids go into Punahou.

"So what's the difference? What's the difference? And is it important that we spend time on this. I think it is, because I don't like when our kids have to go to the mainland. And I don't like that our kids, if they work so many jobs, are susceptible to crystal meth. So to me, I want to see where we can brew those two together. And I don't think it's fair to have two. Some people get to go to whatever school and some people, maybe they're not happy with the public school system. I think it's time to look at what is the real difference.

"And I submit, it's because in my mind the spirit of education has always been about exposure to new ideas. You don't have to agree with those ideas. You shouldn't ever have to feel you have to agree with those ideas. But the exposure to new ideas and people, that is the hallmark of education. And when you want to get people who have new ideas, there are a lot of people who contribute to private institutions who have nothing to do at the school. They're not a parent. They're not a principal. And they're not an employee. They're from the business community or they from the medical profession, or the attorneys. That's what makes a good school, is input from a wide diverse amount of people to help where they can and dialogue. And if local school boards, which I submit, they are

a mechanism, to bring in diverse opinions, to begin to bring in those resource being them intellectual or physical ..."

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

Representative Ching continued, stating:

"Thank you very much. Thank you, Mr. Speaker. If they can enrich monetarily, spiritually, or intellectually for our local kids, our children, they need it in this day and age. We no longer can be insular. They need to compete with everybody."

Representative Bukoski rose to a point of order, stating:

"Point of order, Mr. Speaker. Mr. Speaker, I believe there's a rule in our handbook about decorum. And I look across and I see about three of our Members laughing. And I don't think that's the way we should be treating our Members in this House."

Representative B. Oshiro rose to a point of order, stating:

"Point of order, Mr. Speaker. I rise because I was asking if actually, the current speaker should be looking at the Speaker on the rostrum, or at me? Thank you."

Representative Bukoski: "Mr. Speaker, I'm sorry. I wasn't referring to the speaker that just rose. But thanks for explaining that anyway."

Speaker Say: "Okay let's proceed Representative Ching."

Representative Ching continued, stating:

"Sorry. And I apologize. I was not looking anywhere in particular. I was just thinking. Thank you. When I look out there.

"So what's best for our children? I wonder because apparently we have all these resources. Apparently we have all these resources that are people, ideas, then money. And I'd like to see that come to our local kids, all of our kids. And I want to see this dichotomy, the polarization. I want to see it where parents say, 'I don't need to send my kid to private school because you know what? I like this school in my district.' And what I think local school boards can do is go with community pride, because you want to get involved in your community. You love your community. You're proud. And you go and you get involved.

"And so I submit, that maybe the root of the problem, I don't want to call it a problem, but it is, it's attitude. And if people can help, let's let them help. And maybe local school boards, we can get people to come help. Thank you."

Representative Takai rose, stating:

"Short recess, Mr. Speaker."

Speaker Say: "For what purpose, Representative Takai?"

Representative Takai: "The Chairman of Education would like to have a recess."

Speaker Say: "Recess subject to the call of the Chair."

Representative Thielen rose, stating:

"Mr. Speaker, we are close to the deadline for voting and I would not like to see a procedural situation where we're prevented from voting."

Speaker Say: "Representative Thielen, the Chair recognizes you, and there is no procedural undermining as far as this point. And I will call a short recess."

Representative Thielen: "Do we not have a midnight deadline?"

Speaker Say: "Yes, we do. But the decision will be made, or the vote will be taken before that 12 o'clock deadline."

Representative Thielen: "Thank you, Mr. Speaker, I appreciate that."

At 11:39 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:40 o'clock p.m.

At this time, the Chair stated:

"I know it's getting late for all of us, but I think for all of us here it's been a very healthy, educated discussion on this particular measure. So the Chair will now recognize Representative Takumi."

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

"Thank you very much, Mr. Speaker. I rise in opposition to this measure.

"As I mentioned yesterday at the hearing, I allowed the bill to pass out of Committee because I did believe that this was a measure that deserved the broadest input from the Members of this Chamber, and I think we accomplished that tonight. I thank you Mr. Speaker for that opportunity. I also will try to look at you the rest of my time that I'm talking and not look at the clock in the back of me, and you can tell me when we are getting close to the 'bewitching hour'. There are so many points and so little time I suppose, but let me try to address some of them and hopefully we can get a little more illumination.

"A speaker said that this will not lead to disparity in funding because after all we are going to adopt a student weighted formula and therefore there will be no disparity. Yet on the other hand, it's clearly stated in the bill that principals will be on a performance contract and who's contracts will be negotiated by the individual local school boards. And that they will get substantial raises.

"Now all of us who are engaged in policy making that substantial know that substantial is not quite an exact term. Is that more than a lot? Is that less than a jaw-dropping amount? I'm not quite sure what that means, but what I do know it means is that it does allow every local school district to negotiate contracts with those principals and inevitably there will be disparity in the salaries paid to those principals. And I can assure you what that will mean, is that the districts that are able to pay their principals more money, will be able to attract those principals from the other parts of the State. That will happen.

"Let me get to the bill in particular. My colleague, the Chair of Higher Education, kind of went to the bill because we can talk about broad concepts and slogans, but when you really come down to it, we have to talk about the bill.

"Chapter 89-6. The Chair of the Labor Committee mentioned some of the disparities and contradictions in the bill

regarding Chapter 89-6. Members, turn to page 70. On Unit 5 and Unit 6, it states that: teachers and other persons of the Department of Education, etcetera. And unit 6, it says: educational officers and other personnel of the Department of Education, etcetera. Mr. Speaker, there will be no Department of Education. The constitutional amendment abolishes the DOE, so I don't know what happens to these teachers and educational officers who belong to an agency that no longer exists.

"If you also look at Chapter 89-6, Section D-3, it says that: for Bargaining Units 5 and 6, the Governor shall have 3 votes, the Board of Education shall have 2 votes, and the Superintendent of Education shall have 1 vote. The Superintendent of Education, the Board of Education, no longer exists under this proposal.

"Section 43 of the bill, pages 104 to 107, requires the Superintendent of Education to carry out a number of functions. All well and good, however that position will have been abolished. So I don't know how the Superintendent's expected to carry out any duties, when that position no longer exists.

"And perhaps more importantly to the current Superintendent, the bill states that the Superintendent's salary will have been abolished in the bill. And I know the current Superintendent is a very dedicated public servant, but I don't think even she would want to work for no pay.

"Let's talk about the size of school districts. And my good friend and colleague from Makakilo stated about the 80+ studies. I've read probably about 50 of them. I just simply do not have the time to pull them off the internet and get these studies for all 80. But frankly, the vast majority of those studies talk about the link about small school sizes and not small school districts. Even the main proponent, well over a dozen of those studies, are authored by a national expert called Dr. Craig Howley from Ohio University. And when asked how sure he was about the research linking student achievement to smaller school districts, he replied in an email, "I don't think these issues can be addressed with the present research base. Not hardly." This is the foremost national expert on linking the size of school districts to student achievement."

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

Representative Takumi continued, stating:

"Furthermore Mr. Speaker, the way the current bill is written, it's self-defeating from the front. What do I mean by this? If we create 7 elected school boards which would range from 10,000 to 38,000 from the island of Kauai to the Leeward district, and the studies, if there is any nexus however soft shows that the ideal district size is roughly 3,200, you have set these school districts up for failure because they will be too large. They will be too large to effectuate the kinds of conclusions that some of these studies seem to imply.

"Worse yet though, Mr. Speaker. Once you start getting down to these small districts, the student-weighted formula simply does not work. And that is why no small district in the United States has implemented the student-weighted formula. Indeed this approach will result in, not the creation of more school boards because people will quickly realize that by law, they have to use the student weighted formula. But again, it simply does not work in a small school district because of economies of scale.

"All the studies that I've come across, Mr. Speaker, talk about the five factors. To paraphrase, there are many other factors but I summarized them into 5 main ones: school

leadership, family/community partnerships, school culture and environment, staff development and collaboration, cohesive instructional programs. If anyone scans the literature and you are welcome to do so, you will find none of them mentions the governance issue and the relevance it has of how people and students do in the classroom.

"Furthermore, Mr. Speaker, another point raised by advocates is that every state in the country has local, elected school boards except Hawaii. It works everywhere. Well if you look at test scores; the State of Louisiana, and Mississippi, scored lower than the State of Hawaii. They have local school boards. Take the State of Arizona with 220 school boards. If you look at their test scores in the NAEP, someone mentioned the NAEP scores, 4th and 8th grade, reading, writing, math, and science, none of their 4th and 8th graders reached even the national average and that's with 220 school boards.

"Furthermore, Mr. Speaker, Randy Hitz, the Dean of the College of Education, said, 'The proposed school districts will need to levy taxes to engage in collective bargaining. The authority of these districts will be very limited compared to that of districts on the mainland. Given this reality, it is not appropriate to equate the proposed Hawaii school districts with mainland districts. It begs the question: What exactly will they do? If they have no authority to levy taxes, they do not engage in collective bargaining, the State still establishes standards,...' and most decisions about how to spend the money will be made directly at the school to take care of the situation of that wrestling room, '... then there's little added value to having a local school board. In fact, with so little to do, they are likely to engage in micromanaging the schools.

"Our bill, and everybody voted on that tonight, I thank all the Members. House Bill 2002 dictates that 93.5% of the Department's budget will be spent directly on the schools. We believe that is the best chance for success by pushing the resources directly to the school, under the leadership of the principal and with the collaboration of elected community based councils. We believe that has the best chance of success.

"And in interest of time, Mr. Speaker, it's really come down to this. You know, there's a Japanese proverb that says, 'if the only tool you have is a hammer, then every problem starts looking like a nail.' I think that is the situation we have at present. It 'rolls the dice' on education reform by saying that any reform can only happen with local school boards. Put it on the ballot at the cost of \$2.8 million. If the voters support it, then and only then will the enabling law go into effect. We are basically delaying. People are talking about, let's do it. Under this bill, it will be at least a year, if not 2 years before this actually goes into effect. House Bill 2002 which proposes many of the things in this bill, can go into effect upon approval.

"Furthermore, the bill rests on the premise that every meaningful reform that we are on agreement with, the student-weighted formula, the empowerment of principals, more support for charter schools, more autonomy from State agencies, can only happen if the people vote for local school boards. Want to do student-weighted formulas? Sorry you need local school boards. Want to give more authority and flexibility to the principals? No dice. You need local school boards. Support charter schools? Remove disruptive students? Move other agency duties to the Department? No, no and no, unless you have local school boards. We only have a hammer in this bill. All these problems look like nails.

"Finally, Mr. Speaker, you know, I wanted to see how I could close with this and man, I'm not that eloquent so I decided perhaps the words of our current Superintendent are far more eloquent than I can ever say. And I think it's because she's a teacher and I'm a politician. But let me just say this.

She wrote us all a letter and she said: "The Board of Education appointed me to do the job because of my years of experience in education, for my knowledge, skills, and abilities to do good for the students and school communities. As a teacher, principal, and now Superintendent, I know what works. I know what is missing. And more importantly, I know how to get the job done. Give me the tools, the authority to manage the tools, and the space to do my job. Hold me accountable but first, support me in my proposals to get the job done."

"Mr. Speaker, I agree and support our Superintendent. Let's vote this bill down, and then work with her to help her do her job. Thank you, Mr. Speaker."

At this time, Representative Saiki called for the previous question.

The Chair then stated:

"Before we call the question, Representative Saiki, I would like to give the Members of this House the opportunity of submitting written comments in opposition or support of this measure."

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

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

"In opposition. And I'd be proud and honored to have the words of the Representatives from Pearl City and Aiea incorporated as my own," and the Chair "so ordered."

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

Representative Kaho'ohalahala rose in opposition to the measure and asked that the remarks of Representatives Takumi and Takai be entered in the Journal as his own, and the Chair "so ordered." (By reference only.)

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

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

Representative Herkes' written remarks are as follows:

"Mr. Speaker, I rise in opposition to HB 2332 HD 1.

"First Mr. Speaker I wish acknowledge and thank the Governor for her efforts and for bringing the subject of education to such a high level of interest. I also want to thank the Chair of the Education Committee for his tireless efforts in crafting legislation to improve Hawaii's schools.

"My problem is that this proposed change in education governance does not help the schools that I represent, in fact it may hurt them.

"This is a 120-page bill that is summarized in one paragraph that goes on the ballot and really does not explain the bill.

"I have read the bill, and the more I examine it the more concerned I get.

"Let me tell you about some of the schools that are in my district and what their problems are.

"The towns of Pahala and Na'alehu were sugar towns. When sugar was alive these people had jobs and the communities were stable. When sugar went out, and I was there that day, the troubles began. Lack of jobs; despair in the community, teen suicides and then "ice". This drug has had a terrible impact on these two communities. Parents are traveling off island to work or, in many cases, drive over 100 miles each way each day leaving little time to develop healthy family relationships. Many children's parents are on drugs. Many students are from immigrant families with little or no English language skills. These are daunting challenges for any schoolteacher or administrator. HB 2332 does not help. HB 2002 that puts more control right into the school would be a major step forward and would help and has my support.

"Let's look at the Hawaiian Ocean View Community. One of the fastest growing communities on the island. They do not have any schools in this area and they cannot ask for one because there is no county water system. No water, no school. We have tried for years to bring water to HOVE, no luck. The students leave in the dark and come home in the dark. This bill does not help the parents and children in this community.

"We need to let the individual school communities manage their own affairs. I will tell you that a single elected school board on the Big Island would be east Hawaii voter dominated and they would not give a damn about the schools in Ka'u.

"The main core of students in my district are excellent and getting resources directly to them, at the school level, is what we need. HB 2002 is what does that. Some of HB 2332 also does that but years later and if the amendment does die those reforms die with it."

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

"Thank you, Mr. Speaker. I am rising in support with some serious reservations. I would like mention that my feelings on this bill that will be reflected in my comments, generally agree with my feelings on the other governance bills we have looked at this evening."

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

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

Representative Magaoay 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 Magaoay's written remarks are as follows:

"Mr. Speaker, I will be voting "with reservations" on H.B. 2332, HD 1. I'm just not sure this bill is everything its supporters say it is. Can it really do all of what it's proponents say it can do? Recent news articles have questioned the pertinence of the data the bill's proponents have used to support the idea. Is there data to say this really will improve things? I remain perplexed. While I want to see more local control of our schools, I'm not sure this is the right way to go. Therefore, I'm going to vote with reservations. Thank you, Mr. Speaker."

Representative Nishimoto rose in opposition to the measure and asked that the remarks of Representatives Takumi and

Takai be entered in the Journal as his own, and the Chair "so ordered." (By reference only.)

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

Representative Lee's written remarks are as follows:

"Mr. Speaker, I stand in opposition to the measure. In the February 16 issue of "Hawaii Business Report", Chairman of the Board of the Chamber of Commerce of Hawaii, Robin Companiano, stated: "Our board's position is that the issue of local school boards need not be conjoined with other reforms in any legislative initiative, and that it should not imperil other needed changes."

"The House Majority has put forward a number of reform measures which are not attached to any specific governance measure – our bottom line is to increase student achievement while at the same time allowing greater flexibility, responsibility and accountability at the school level.

"It is all very high sounding and difficult to articulate at the community level where the real world of education is going on. At a recent community forum in Mililani where the CARE package was presented, citizens, parents, teachers, principals and others made it clear they do not like the concept of 7 elected school boards and a state board appointed by the Governor which has power over fiscal matters. What is needed they said are:

1. A way to make sure the money actually goes down to the schools
2. Support for teachers
3. Smaller classes
4. Smaller schools
5. A process towards reform that involves teacher and principal input.
6. Adequate funding for the many current needs in our schools. (In this regard, they supported the proposal which takes away the Governor's veto power on educational funding.)

"Several spoke up to say they feel "public education in our state is not 'broken'". It may need some tweaking, but many changes are already underway to improve the system. A good example of a program being implemented at the local level that promotes standards-based education and involves students, teachers and parents in the process is Mililani 'Ike Elementary School's Community of Thinkers and Learners. The focus is on a vision of every student learning in a rigorous and relevant standards-based positive learning environment. Their stated mission includes championing every student to recognize that she or he is a complex thinker, and a belief statement that learning extends beyond the classroom and the students of the Mililani 'Ike community must support learning based on decisions that are: Student-Centered, Data-Driven and Actionable. I was impressed – concerns about governance are far from the minds of those working day-to-day educating our children.

"My own experience in the public schools is going on 25 years – as a parent, community activist and now a legislator. I worked hard back in 1989 to bring school community based management to our community at Mililani High School – and observed a change in the reception parents received coming into the schools. At one time, I was PTSA president and watched how successful community work days could build the feeling of community in our district. At present, I serve as an

SCBM chair – our agenda includes the nitty gritty concerns the school deals with daily.

"All of us recognize that there are many improvements needed in our schools. I believe the proposals contained in House Bill 2002 will empower the schools and help bring about many needed changes. I also believe we must support the leadership of the Superintendent, whose passionate voice has rallied the support of personnel in the schools. She asks much of the same I heard from the community – give us the resources we need and hold us accountable.

"I believe we are on the threshold of change in our public education system. A change in governance that would be expensive, confusing and delayed is not what we need now. I urge the members to oppose this bill."

Roll call having been previously requested, and by unanimous consent, granted, the motion that the report of the Committee be adopted and H.B. No. 2332, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," 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 of Noes and Ayes:

Noes, 30: Representatives Arakaki, Caldwell, Chang, Hamakawa, Herkes, Hiraki, Ito, Kahikina, Kaho'ohalahala, Kanohe, Karamatsu, Kawakami, Lee, Luke, Mindo, Morita, Nakasone, Nishimoto, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Shimabukuro, Sonson, Souki, Takai, Takamine, Takumi and Wakai.

Ayes, 20: Representatives Abinsay, Blundell, Bukoski, Ching, Evans, Finnegan, Fox, Hale, Halford, Jernigan, Leong, Magaoay, Marumoto, Meyer, Moses, Ontai, Stonebraker, Tamayo, Thielen and Waters.

Excused, 1: Representative Pendleton.

Representative Bukoski rose and stated:

"Point of inquiry. On a call for the question, is there a second that is required?"

The Chair responded, stating:

"There is no need for a second because there was no objection."

ADJOURNMENT

At 11:57 o'clock p.m. on motion by Representative Lee, seconded by Representative Meyer and carried, the House of Representatives adjourned until 12:00 o'clock noon, Monday, February 23, 2004. (Representative Pendleton was excused.)

TWENTY-FIRST DAY

Monday, February 23, 2004

The House of Representatives of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004, convened at 12:05 o'clock p.m., with the Speaker presiding.

The invocation was delivered by Representative Ezra R. Kanoho, after which the Roll was called showing all members present with the exception of Representatives Kaho'ohalahala, Karamatsu, Ontai, M. Oshiro and Takumi who were excused.

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

INTRODUCTIONS

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

Representative Takamine welcomed the members of the Hawaii Chapter of the American Payroll Association and introduced its officers:

Ms. Jane Inouye, President;
Ms. Stephanie Kaumeheiwa, Vice President;
Ms. Sandy Kaleohano, Secretary; and
Ms. Michelle Alblinger, Treasurer.

Representative Lee introduced members of the Central Oahu Caregiver Support Group who were seated in the gallery:

Ms. Lani Nedbalek;
Ms. Rachel Sato;
Ms. Elaine Sato;
Ms. Nona Minami; and
Ms. Florence Matsuda.

Representative Arakaki introduced visitors from Nova Scotia, Canada:

Mrs. Stephanie McCandless-Reford;
Mr. Robert Reford;
Ms. Susan Russell; and
Mr. Daniel Russell.

Representative Hale noted that Mrs. Stephanie McCandless-Reford is originally from Kona and her family is the owner of the McCandless Ranch.

ORDER OF THE DAY

COMMITTEE ASSIGNMENT

The following concurrent resolution (H.C.R. No. 40) was referred to committee by the Speaker:

H.C.R.
No. Referred to:

40 Committee on Tourism and Culture

COMMITTEE REASSIGNMENTS

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

H.B.
Nos.

Re-referred to:

2703 Committee on Finance

2791 Committee on Judiciary

At 12:14 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 12:39 o'clock p.m.

STANDING COMMITTEE REPORTS

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 483-04) recommending that H.B. No. 1828, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1828, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ORDER," passed Second Reading and was placed on the calendar for Third Reading with Representatives Ontai and Takumi being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 484-04) recommending that H.B. No. 2024, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2024, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSFER OF OWNERSHIP OF FIREARMS AND AMMUNITION," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Ontai and Takumi being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 485-04) recommending that H.B. No. 2298, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, 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 DISQUALIFICATION OF JUDGES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Ontai and Takumi being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 486-04) recommending that H.B. No. 2299, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2299, HD 1, entitled: "A BILL FOR AN ACT RELATING TO APPELLATE COURT COSTS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Ontai and Takumi being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 487-04) recommending that H.B. No. 2686, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2686, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE LIQUOR COMMISSION," passed Second Reading and was placed on the calendar for Third Reading with Representatives Ontai and Takumi being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 488-04) recommending that H.B. No. 2789, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2789, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SEXUAL ASSAULT," passed Second Reading and was placed on the calendar for Third Reading with Representatives Ontai and Takumi being excused.

At 12:40 o'clock p.m., Representative Hamakawa requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:41 o'clock p.m.

ANNOUNCEMENT

Representative Thielen: "Thank you. Mr. Speaker, I'm sorry I thought you were going to go by page when we started with the 483, page 1 through 488 on page 2. And Mr. Speaker, I do want to cast a no vote on 483, the urinating or defecating in public bill."

At 12:43 o'clock p.m., Representative Saiki requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:46 o'clock p.m.

Representative Thielen: "Mr. Speaker, thank you. I understand that the vote has already been taken. Thank you. And I'm just going to explain why I am going to vote no on third reading.

"This is urinating or defecating in public and what it deals with is a group of people for the most part that are either mentally unstable or homeless. We certainly have a lack of restroom facilities in the downtown area. There are people that just maybe not by choice, but because of some mental instability will use an alleyway to go *shishi* in.

"The bill instead of looking for solutions and saying we could use some public toilets that are self-cleaning, and we should appropriate money for those. The bill instead of looking that way is saying, we're going to take this vulnerable small section of the population, and we're going to say that you are going to be fined \$200 or you're going to have to do 8 hours of community service work. Both are unrealistic.

"You're talking about people that don't have money. You're talking about people that probably would not be able to perform community service work. And you're talking about people that certainly aren't down here defending themselves. I think it's really the wrong way to go. I think it's in many ways shameful. Thank you."

Representative Jernigan rose and asked:

"Are we voting on the third reading bills?"

The Chair clarified, stating:

"No. I stated for the record, we are on the motion of Stand. Com. Report 489 and 490. Representative Saiki made the motion, second by Representative Lee. And I went by Stand. Com. Report 489 and not 490 and there was no discussion. So all those in favor, say aye. Those oppose say no. The motion is carried.

Representative Jernigan: "I would like to submit written remarks on Stand. Com. 484."

Speaker Say: "Okay. Members, can we go back to Stand. Com. Report 484 which was the vote has already been taken. Yes, but please. You would like to?"

Representative Jernigan: "I would like to submit written remarks for the Journal."

Speaker Say: "The Chair will allow you at this point. But the vote has already been for all of you."

Representative Jernigan: "Thank you. I was in opposition to that and I just wanted to put the remarks in. Thank you."

Representative Jernigan written remarks are as follows:

"Mr. Speaker,

"I am in opposition to HB-2024.

"I was unable to cast a "no" vote because no discussion was allowed on this measure. The gavel was struck before I could rise in opposition. This measure further erodes the rights of gun ownership.

"This is an unneeded measure that would create a hardship on firearm owners. Many firearm owners have collections valued in the \$100k dollar range, these collections require proper storage to prohibit deterioration. HPD has testified against this measure in the past because they have no provisions to maintain them. This measure will prohibit the sale of these valuable assets. Most couples involved in a divorce need to convert assets to cash for division, and to pay attorney's fees.

"Mr. Speaker, the committee report stated: 'Although the law requires individuals restrained by court order to remove firearms from their control by sale, surrender, or transfer, some individuals retain control over their firearms by transferring them to friends and relatives who allow free access to the firearms. Your Committee has amended this bill by clarifying that individuals restrained by court order cannot dispose of their firearms by transferring ownership.'

"Mr. Speaker, the safety of the person requesting the court order is protected as much as possible under the current law allowing transfer of firearms. The county police automatically take possession of all firearms and ammunition possessed by the person named in the order. That person must provide a bill

of sale or other legal document to the person to whom the firearms are to be transferred. The transferee must present the county police with that document and permits to acquire firearms. In order for a person to acquire a permit they must pass a rigid background check required pursuant to Hawaii firearms statute. Once they receive the firearms from the police they are subject to the absolute liability statute for any damage or injury resulting from the use of the firearm, and are forbidden by law to permit any person disabled under S-134 to possess firearms."

STANDING COMMITTEE REPORTS

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 489-04) recommending that S.B. No. 1374, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 1374, entitled: "A BILL FOR AN ACT RELATING TO THE STATE FIRE COUNCIL," passed Second Reading and was referred to the Committee on Finance with Representatives Ontai and Takumi being excused.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 490-04) recommending that S.B. No. 779, SD 2, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 779, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Second Reading and was referred to the Committee on Finance with Representatives Ontai and Takumi being excused.

THIRD READING

H.B. No. 33, HD 2:

By unanimous consent, H.B. 33, HD 2, was deferred one legislative day.

H.B. No. 1895, HD 1:

By unanimous consent, H.B. 1895, HD 1, was deferred one legislative day.

H.B. No. 1897, HD 1:

By unanimous consent, H.B. 1897, HD 1, was deferred one legislative day.

ADJOURNMENT

At 12:49 o'clock p.m. on motion by Representative Lee, seconded by Representative Meyer and carried, the House of Representatives adjourned until 12:00 o'clock noon tomorrow, Tuesday, February 24, 2004. (Representatives Ontai and Takumi were excused.)

TWENTY-SECOND DAY

Tuesday, February 24, 2004

The House of Representatives of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004, convened at 12:06 o'clock p.m., with the Speaker presiding.

The invocation was delivered by Mr. Renwick "Uncle Joe" Tassill, after which the Roll was called showing all members present with the exception of Representatives Hale, Hiraki, Ontai, Takamine and Takumi, who were excused.

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

GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 132 through 134) were received and announced by the Clerk and were placed on file:

Gov. Msg. No. 132, transmitting the Department of Business, Economic Development, and Tourism's Annual Report for 2003.

Gov. Msg. No. 133, transmitting the 2004 Report of the Executive Salary Commission, submitted by the Department of Human Resources Development.

Gov. Msg. No. 134, transmitting the Comprehensive Annual Financial Report of the State of Hawaii for the fiscal year ended June 30, 2003, prepared by the Comptroller, Department of Accounting of General Services.

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 16 through 28) were received and announced by the Clerk:

Sen. Com. No. 16, transmitting S.B. No. 245, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," which passed Third Reading in the Senate on February 23, 2004.

Sen. Com. No. 17, transmitting S.B. No. 2246, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," which passed Third Reading in the Senate on February 23, 2004.

Sen. Com. No. 18, transmitting S.B. No. 2427, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TEACHERS," which passed Third Reading in the Senate on February 23, 2004.

Sen. Com. No. 19, transmitting S.B. No. 2522, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," which passed Third Reading in the Senate on February 23, 2004.

Sen. Com. No. 20, transmitting S.B. No. 2523, entitled: "A BILL FOR AN ACT RELATING TO STATE FINANCES," which passed Third Reading in the Senate on February 23, 2004.

Sen. Com. No. 21, transmitting S.B. No. 2524, entitled: "A BILL FOR AN ACT RELATING TO STATE FINANCES," which passed Third Reading in the Senate on February 23, 2004.

Sen. Com. No. 22, transmitting S.B. No. 2525, entitled: "A BILL FOR AN ACT RELATING TO STATE FUNDS," which passed Third Reading in the Senate on February 23, 2004.

Sen. Com. No. 23, transmitting S.B. No. 2526, entitled: "A BILL FOR AN ACT RELATING TO STATE PROPERTIES," which passed Third Reading in the Senate on February 23, 2004.

Sen. Com. No. 24, transmitting S.B. No. 2527, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," which passed Third Reading in the Senate on February 23, 2004.

Sen. Com. No. 25, transmitting S.B. No. 2529, entitled: "A BILL FOR AN ACT RELATING TO SECURITIES FOR THE PROTECTION OF PUBLIC FUNDS," which passed Third Reading in the Senate on February 23, 2004.

Sen. Com. No. 26, transmitting S.B. No. 2825, entitled: "A BILL FOR AN ACT RELATING TO THE ELECTIONS APPOINTMENT AND REVIEW PANEL," which passed Third Reading in the Senate on February 23, 2004.

Sen. Com. No. 27, transmitting S.B. No. 3179, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," which passed Third Reading in the Senate on February 23, 2004.

Sen. Com. No. 28, transmitting S.B. No. 3182, entitled: "A BILL FOR AN ACT RELATING TO THE STATE OF HAWAII," which passed Third Reading in the Senate on February 23, 2004.

On motion by Representative Lee, seconded by Representative Meyer and carried, the following Senate bills passed First Reading by title and further action was deferred: (Representatives Hale, Hiraki, Ontai, Stonebraker, Takamine and Takumi were excused.)

S.B. No. 245, SD 2	S.B. No. 2526
S.B. No. 2246, SD 1	S.B. No. 2527
S.B. No. 2427, SD 1	S.B. No. 2529
S.B. No. 2522	S.B. No. 2825
S.B. No. 2523	S.B. No. 3179
S.B. No. 2524	S.B. No. 3182
S.B. No. 2525	

INTRODUCTIONS

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

Representative Kahikina introduced students from Maili Elementary School, and teachers, Ms. Jan Tomosata and Ms. Darleen Warden.

Representative Ching introduced her constituent, Mr. Arvid Youngquist.

Representative Finnegan introduced Mr. Aaron Ling Johanson, Republican Party Policy Director.

Representative Luke introduced Ms. Corina Eckl and Ms. Hy Gia Park of the National Conference of State Legislatures.

ORDER OF THE DAY

COMMITTEE REASSIGNMENT

The following bill was re-referred to committee by the Speaker:

**H.B.
No.****Re-referred to:**

2354 Committee on Finance

UNFINISHED BUSINESS

At this time, the Chair announced:

"On page 2, Members, the three House bills, listed under Unfinished Business will be deferred one legislative day."

H.B. No. 33, HD 2:

By unanimous consent, H.B. No. 33, HD 2, was deferred one legislative day.

H.B. No. 1895, HD 1:

By unanimous consent, H.B. No. 1895, HD 1, was deferred one legislative day.

H.B. No. 1897, HD 1:

By unanimous consent, H.B. No. 1897, HD 1, was deferred one legislative day.

STANDING COMMITTEE REPORTS

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 491-04) recommending that H.B. No. 2019, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2019, entitled: "A BILL FOR AN ACT RELATING TO SOCIAL SECURITY NUMBERS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Hale, Ontai, Takamine and Takumi being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 492-04) recommending that H.B. No. 2380, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2380, HD 1, entitled: "A BILL FOR AN ACT RELATING TO APPELLATE JURISDICTION," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Hale, Ontai, Takamine and Takumi being excused.

Representatives Arakaki and Takumi, for the Committee on Health and the Committee on Education presented a report (Stand. Com. Rep. No. 493-04) recommending that H.B. No. 2198, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2198, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL HEALTH," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Hale, Ontai, Takamine and Takumi being excused.

INTRODUCTION OF RESOLUTION

By unanimous consent, the following concurrent resolution (H.C.R. No. 41) was referred to Printing and further action was deferred:

H.C.R. No. 41, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A STUDY TO ASSESS THE FEASIBILITY OF DEVELOPING A PARK IN KAPOHO, HAWAII," was offered by Representative Hale.

ANNOUNCEMENTS

Representative Saiki: "Mr. Speaker, I would like to extend birthday greetings to our colleague from Kakaako, Representative Ken Hiraki."

Representative Meyer: "Mr. Speaker, it's my pleasure to announce there's another birthday boy in this Chamber today. He's a senior Member and I believe he's a little over 40 today, our Minority Leader, Galen Fox.

ADJOURNMENT

At 12:17 o'clock p.m. on motion by Representative Lee, seconded by Representative Meyer and carried, the House of Representatives adjourned until 12:00 o'clock noon tomorrow, Wednesday, February 25, 2004. (Representatives Hale, Ontai, Takamine and Takumi were excused.)

TWENTY-THIRD DAY

Wednesday, February 25, 2004

The House of Representatives of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004, convened at 12:05 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 Hiraki, Ontai, Takamine and Takumi 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 MESSAGE

The following message from the Governor (Gov. Msg. No. 135) was received and announced by the Clerk and was placed on file:

Gov's Msg. No. 135, transmitting a report prepared by the Department of Health, Alcohol and Drug Abuse Division, on the Implementation of Section 321-193.5 of the Hawaii Revised Statutes.

INTRODUCTIONS

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

Representative Pendleton introduced visitors from New Mexico, Mr. Abel and Mrs. Rose Flores, parents of his Office Manager, Ms. Alicia Flores.

Representative Pendleton also introduced a friend from Riverside, California, Mr. Warren Walikonis.

Representative Arakaki introduced members of the Tsushima Marumoto Memorial Foundation from Okinawa:

Mr. Masakatsu Takara, President;
Mr. Masatsune Toguchi, Director;
Ms. Tomoko Hokama; and
Ms. Katsuko Kamanao, their guide from Kono Hawaii Tours.

ORDER OF THE DAY

INTRODUCTION OF RESOLUTIONS
(FLOOR PRESENTATIONS)

The following resolutions (H.R. Nos. 26 and 27) were announced by the Clerk and the following action taken:

H.R. No. 26, entitled: "HOUSE RESOLUTION RECOGNIZING AND COMMENDING DR. CHARLES R. 'DICK' BEAMER, Ph.D., FOR HIS COMMITMENT TO THE HAWAII LIONS INTERNATIONAL YOUTH CAMP," was offered by Representative Mindo.

Representative Mindo, moved that H.R. No. 26 be adopted, seconded by Representative Tamayo.

Representative Mindo introduced the honoree, Dr. Charles R. 'Dick' Beamer and members of the Ewa Beach Lions, Mr. Coby Lynn and Ms. Eileen Lynn who were seated on the floor of the House.

The motion was put to vote by the Chair and carried, and H.R. No. 26 was adopted with Representatives Hamakawa, Nishimoto, Ontai, Takai and Takumi being excused.

H.R. No. 27, entitled: "HOUSE RESOLUTION CONGRATULATING MAUI ECONOMIC OPPORTUNITY, INC. ON RECEIVING THE 2003 AWARD FOR EXCELLENCE IN COMMUNITY ACTION," was jointly offered by Representatives Souki, Kaho'ohalahala, Bukoski, Blundell, Nakasone and Halford.

Representative Souki moved that H.R. No. 27 be adopted, seconded by Representative Nakasone.

Representative Souki introduced the following honorees who were seated on the floor of the House:

Ms. Gladys C. Baisa, Executive Director;
Mr. Sandy K. Baz, Deputy Director;
Mr. Chubby Zicens, Future President;
Mr. Ken Hunt, Planner and Grant writer; and
Mr. Dan Regan, Developer.

The motion was put to vote by the Chair and carried, and H.R. No. 27 was adopted with Representatives Hamakawa, Nishimoto, Ontai, Takai and Takumi being excused.

At 12:32 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:03 o'clock p.m., with the Vice Speaker presiding.

UNFINISHED BUSINESS

At this time, the Chair announced:

"Members, the three House Bills listed under Unfinished Business will be deferred one legislative day."

H.B. No. 33, HD 2:

By unanimous consent, H.B. 33, HD 2, was deferred one legislative day.

H.B. No. 1895, HD 1:

By unanimous consent, H.B. 1895, HD 1, was deferred one legislative day.

H.B. No. 1897, HD 1:

By unanimous consent, H.B. 1897, HD 1, was deferred one legislative day.

STANDING COMMITTEE REPORTS

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 494-04) recommending that H.B. No. 2020, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2020, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROSTITUTION," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Ontai and Takumi being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 495-04) recommending that H.B. No. 2003, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2003, 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 with reservations, stating:

"Thank you, Madame Speaker. Stand. Com. Report 495, I have some serious reservations about this bill.

"We face a serious problem in our community in relation to 'ice' and I just want to speak about one part of this bill. It's the creation of a trafficking charge to deal with people who are in possession of crystal methamphetamine or 'ice'. We're now going to have to go into the business of determining whether or not they are actually trafficking as opposed to just simply having it. I much prefer the situation we had because this legislative body from 1996 to 2002, when you had an ounce of crystal meth, nobody had to guess whether or not you were a dealer, you were a trafficker. If you have that much crystal meth, you are a trafficker. And there's no confusion and it's easy for the prosecutor to prosecute because that's what it is. Now we're in this business of trying to determine trafficking.

"And I also do have objection to one other section of the bill. And I've not been able to really study it so these are two problems so far. And that is Section 11, that allows people who are convicted of previous crimes and come up before the judge for the first time because they're now involved with ice, so it's a first time drug charge. And if the previous crime is nonviolent according to this section of this bill that we are reviewing, that person gets probation, even though they're a repeat criminal. And the crime that they committed was a serious crime. It doesn't have to be violent to be serious. I mean burglary can be a very serious crime in terms of the damage that it does to a local family. So I find these very problematic. And I think there are probably many other sections of this bill that will bother us. Thank you, Madame Speaker."

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

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

"Thank you, Madame Speaker. Standing in strong support and strong reservation on one portion. I would like to point the Members to page 64, section 46, and leading to page 65. That is, 'drug rehabilitation homes; permitted use in residential areas.' Speaker, this would allow, I guess, the spread of rehab homes. And the rehab homes are broadly defined. And this page which include plantation homes, as well as 'clean and sober' homes. In Section A, what that says is that these homes, if any of these homes, is called a drug rehabilitation home, which includes transitional homes, can be located in any

residential area without having the need to get a conditional use permit, variance, or special exceptions.

"This would mean that you could go to Waipahu, oh by the way there, now they can go to Kahala, Aina Haina, Mililani, anywhere, any neighborhood. This could be your next-door neighbor, without having to obtain a special variance that's really required right now under the zoning laws. Right now if a 'clean and sober' home or a 'drug rehab home' wants to locate next to your house, they would need to go to the City and County and get a variance. That would require that they go to the Neighborhood Board at a minimum, and have the Neighborhood Board conduct a meeting on this. And they would require whoever is going to locate a drug rehab home in your neighborhood to at least get the neighbors to sign a petition that say it's okay. It's all right with us. You can locate the drug rehab home next to our house. With this bill they don't need to do that.

"It does have this provision in Section B that says that a public informational meeting to be held in the affected community, which doesn't mean anything. What you just do is go and hold a meeting at a Neighborhood Board. But it doesn't say that. It doesn't say that it needs the approval of the Neighborhood Board. It doesn't say anything but that they are going to have a meeting in the affected community which is to me, not sufficient protection for the communities.

"The drug rehabilitation home then in Section C is expanded to include 'clean and sober' homes and transitional living homes. Let me tell you that there's already a 180-bed transitional home in Waipahu. That is already against the law, but it was approved by the Neighborhood Board. Let me also tell you Madam Speaker, that since they have located that transitional home in Waipahu, that they've had to arrest 10 people for drug violations.

"Transitional homes, Madam Speaker, are homes that are designed to hold an overflow from our public safety system or our jails. These individuals who are incarcerated or are released by HPA, Hawaii Paroling Authority, are released into these homes. There are 1,500 of these individuals."

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

Representative Sonson, continued, stating:

"According to the HPA, there's 1,500 individuals right now in our community. Well, because there's a 180-bed facility in the 'Weed and Seed' area in Waipahu, they are there. I should thank the author of this bill because now with this, they don't have to come to Waipahu. They can come and live next to all of us. But I think that it's unfortunate, that we are going to make this decision if we don't look at this carefully.

"There's not enough protection for our community. In our, I guess in our enthusiasm, to respond to a drug problem, I think that we are going to be creating another problem unless we put some restrictions on how these homes will be located in our neighborhoods.

"The current language in Section C, where it says that it will be approved by the Department of Health, I believe that stronger language which requires a license is required there. Where it says that they are going to be exempt from zoning laws, I think at a minimum, that language should be incorporated in there so that a meeting is held at a Neighborhood Board, so that the Neighborhood Board can at least require them to ask the community. To make sure that the communities that are directly affected, will have a say in it.

"Don't worry that this will stop the placement of these homes altogether because as I'd said earlier, Waipahu allowed a 180 bed facility in their neighborhood, so I'm sure that there will be homes available out there in some neighborhoods. So those are my reservations. Other than that Madam Speaker, this is a very good bill and we should support it. Thank you."

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

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

"Thank you, Madame Speaker. I have reservations with the portions that I've had time to look at because we just received it, including some of the employer mandates. But I also have serious concerns because the bill in front of me is missing pages. Mine skips pages 49 through 55. My colleague's skips page 49 through 56. And I'm not sure if all the Members have copies of the entire bill or if we're all missing pages. Thank you, Madame Speaker."

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

"Thank you, Madame Speaker. I'm rising in support with some reservations."

"I'm not going to go into a long-winded speech. I'm a little disappointed that there seems to be very little in this bill that gives law enforcement the boost that they need by eliminating Section 13, 14, and 15 of the original bill, which provided for federal search or arrest warrants and federal affidavits to serve as the basis for state search or arrest warrants. That's been taken out. I am thankful that the provision that would have made private employers pay for drug treatment for fired employees is out. But I'm a little concerned about the provision that requires small businesses to give training in prevention, education and prevention. That we still have a fine. You reduced it, but it's still there not to exceed \$500 if they don't comply. Thank you, Madame Speaker."

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

Representative Jernigan 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 Jernigan's written remarks are as follows:

"Mr. Speaker I am in opposition to this measure for the following reasons:

"SECTION 4. Amends definition of 'drug paraphernalia' in section 329-1 to add the word 'primarily' in front of many phrases in the law. Repeals several factors the court was mandated to use in determining whether or not something is 'drug paraphernalia'.

"Mr. Speaker this does not touch the issue of lowering the intent requirement for conviction under our drug paraphernalia laws. We can alter the definition all we want to specify exactly what drug paraphernalia is, but if we keep the criminal intent requirement as is, we keep the easy loophole for sellers to escape conviction under state law. In other words, we have not addressed the problem. The word 'primarily' may also make it more difficult to convict for this offense.

"SECTION 5. Amends 712-1241 (Promoting a dangerous drug in the 1st degree) by exempting distribution or manufacturing of methamphetamine from the scope of the offense and deletes language in offense corresponding to section 7 of Act 161 (2002).

"SECTION 6. Amends 721-1242 (Promoting a dangerous drug in the 2nd degree) by exempting distribution of methamphetamine from the offense, deletes language in offense corresponding to section 8 of Act 161 (2002).

"SECTION 7. Amends 721-1243 (Promoting a dangerous drug in the 3rd degree) by deleting language corresponding to section 9 of Act 161 (2002).

"Mr. Speaker for these three current criminal offenses, the issue of meth possession is left untouched, leaving possession offenses where the prosecution cannot prove intent to distribute, etc . . . to the Act 161 processes, as amended by this bill.

"Mr. Speaker this Bill does not touch our State Constitution, thus, the problem of a stricter standard for search and seizure for state warrants still exists, i.e., cases where feds execute warrants and gather evidence, then whatever is left over cannot be used by State because of tougher standards. While the original bill had some purported language touching upon this issue, our Supreme Court could still rule that original language unconstitutional. Problem remains unaddressed in the current bill. This bill also does not touch on "walk and talk" nor electronic surveillance.

"SECTION 12. Amends 706-625 (Revocation, modification of probation conditions) to permit revocation of probation if a court determines that the defendant cannot benefit from any other suitable substance abuse treatment program.

"SECTION 13. Creates a new chapter in the HRS entitled "Drug Dealer Liability". Lists allowed plaintiffs (parent, legal guardian, child, spouse, or sibling of individual drug user; individual exposed in utero; employer of individual drug user; any entity that funds a drug treatment program or employee assistance program and defendants (person who knowingly distributed or knowingly participated in the chain of distribution; person who knowingly participated in the illegal drug market if the place of activity is within the illegal drug market target community of defendant; participation in illegal market with same type of illegal drug as used by the individual user; and if defendant participated at any time during the individual drug's user period of use). Sets forth damages that can be recovered – economic, noneconomic, exemplary, reasonable attorney's fees and costs of suit. Allows an individual drug user to sue only under this chapter if clean for 6 months before filing of action and continues to remain clean throughout the pendency of the action. Mandates that 25% of the actual recovery of damages be turned over to the general fund. Prohibits vicarious liability. Sets out graduated levels of offense based on geography for purposes of determining illegal drug market target community. Allows for joinder of parties under certain circumstances. Allows comparative responsibility to diminish plaintiff's potential award, except for when the plaintiff is not a drug user. Allows joint tortfeasor statutes to apply to causes of action. Provides defense for lawful use under prescription and law enforcement operation exception. Sets statute of limitations at 4 years after an act of participation in illegal drug market and tolls period when criminal investigation ongoing.

"Mr. Speaker although this appears to be the quintessential Democratic Party response to a problem – let the consumer

lawyers sue them – this idea has some merit. The question I raise is who has the courage to sue a drug trafficker if the criminal laws we pass will not hold them in prison?

"SECTION 15. Establishes new part in HRS dealing with substance abuse prevention education. Mandates an employer (15 or more employees & the State) provide at least 1 hour of substance abuse prevention education on an annual basis. Sets civil fine up to \$500 if employer found in violation.

"Mr. Speaker there is supposedly some tax credit for this, albeit small, less than \$100. Is this really useful?

"SECTION 16. Amends 302A-1134.6 (Zero tolerance policy) to mandate referral to assessment by certified substance abuse treatment counselor before exclusion from school attendance. If substance abuse treatment is recommended, punishment related to applicable sections deferred if child enters treatment, complies with terms of program, and successfully completes program. If child successfully completes program, no exclusion and record expunged. Also allows that if treatment is not immediately available, child shall not be excluded but may be transferred to an alternative learning center. Allows principal to crisis suspend up to 10 days so long as referral and assessment process is begun in those 10 days.

"SECTIONS 18, 19, 20. Adds new section to insurance code to mandate parity between plans subject to 431M-2 (policy coverage, basically all plans except for insurance policies issued solely for single diseases or specialized coverage) for alcohol or drug abuse or dependency to be equal and co-extensive with coverage for physical disease and illness. Exempts this mandate from impact assessment report requirement by the auditor under 23-51 and finds situation demands immediate response and slight rise in premiums. Mandates that treatment for meth addiction under medical plans participating in QUEST as well as the fee for services program under DHS comply with above mandate. Repeals on June 30, 2010.

"Mr. Speaker is the increase in premiums that slight? HMSA testified to the original mandate for parity for ice treatment. Something in the neighborhood of 0.5% increase in premiums. Expanding to all drug and alcohol abuse or dependency, while addressing the issue of people switching to ice to get insurance for treatment, increases cost.

"SECTION 22. Adds new part to Chapter 334 titled "Civil Commitment for Substance Abuse Outpatient Treatment". Allows any family member (defined in bill) to petition family court to require respondent to enter outpatient drug treatment program for substance abuse. Sets forth notice and service requirements. Allows the court to postpone the hearing for purpose of substance abuse assessment of respondent at respondent's cost. Allows the court to grant petition if shown by clear and convincing evidence that respondent has a history of abuse and refuses to enter treatment voluntarily, has a family support system that will encourage and participate in treatment program, can benefit from outpatient treatment and is capable of surviving safely in the community, either respondent or petitioner has financial resources to pay for program, poses a danger to self and others if treatment is not received, AND understands the nature of the proceeding and the effect of the court order. Limits order to 90 days of treatment. May be extended another 90 days in discretion of court upon renewal of petition. Mandates petitioner to bear all costs related to bringing petition. Petitioner or respondent mandated to pay for private treatment. Order automatically lapses upon successful completion of program, early or otherwise.

"Mr. Speaker, I am always leery about court actions that take away freedoms of individuals – my bias. Although I agree with the intent of this section, we are taking away the choice of an individual without proving incapacity. The law presumes it, but it does not have to be proven in order that this petition is granted. In essence, we are saying that the drug user has no capacity to make health care decisions for themselves. The legislature does do this, for example, for minors. Looking at this from a civil libertarian standpoint, this is more of a 'gestapo/police state' measure than anything the Administration has offered.

"SECTION 23. Adds new section to chapter 46 entitled "Drug rehabilitation homes; permitted use in residential areas". Classifies drug rehabilitation home as a permitted use in residential zones, including single-family dwellings. Obviates need for conditional use, permit, variance, or exception for residence used as a drug rehabilitation home. Mandates a public informational meeting be held in affected community before permitting use. Defines "drug rehabilitation home" as any facility that accommodates no more than 10 unrelated persons and is operated by a community-based nonprofit agency approved by DOH and whose purpose is to facilitate development of residential supportive living homes for recovering addicts. Includes "clean and sober" homes in definition.

Mr. Speaker, I think NIMBY will play a huge factor here. These will begin to pop up all over the place, especially if the funding is there, and I imagine the Democrats' money bill would pass out.

"SECTION 27, 28, 29, 30. Amends Chapter 712, part V (Nuisance abatement) to mandate that any citizen bringing a nuisance abatement suit against a place use for committing drug offenses or who files a complaint with local police or drug abatement unit of the AG to have the same rights and protections of victims & witnesses in criminal proceedings in accordance with chapter 801D (Rights of victims & witnesses in criminal proceedings). Amends 712-1276 to allow for the collections of attorney's fees in nuisance abatement cases. Amends 712-1278 to allow for attorney's fees imposed against the owner of a place subject to a nuisance abatement suit to be a lien against the property. Sets up DPS to coordinate drug abatement efforts by facilitating sharing of resources and information, setting up community action plans, providing technical support, etc. and repeals this function on June 30, 2007.

"Mr. Speaker at first blush, this part, entitled 'Citizen Empowerment' is a feel-good concept. The purpose language states that: 'communities should be empowered to assist law enforcement in containing illegal drug activities in their neighborhoods. Accordingly, the legislature finds that efforts by citizens to abate drug trafficking activities in their neighborhoods through the filing of private citizen complaints for nuisance abatement should be supported by changes in the nuisance abatement laws to permit recovery for attorneys' fees and to protect citizens who complain about such nuisances in the same way as victims of crimes are protected.'

"I can see their point. But it is law enforcement's job to protect the citizenry. Give law enforcement the proper tools. This is civil self-help, and despite the best of intentions, people will get hurt. Pushed enough, drug dealers won't care exactly who made the complaint, they will act on their preconceived notions as to who did it. Can police protect a complainant's extended family, business, pet? Section 801D-4 mandates protection from threats or harm, but there is only so much law enforcement can do. This is backwards. Law enforcement should be on the offensive, not on the defensive. There are some that will applaud this, and act on this, outspoken

community leaders, greedy lawyers. Someone is going to get killed because of this law. Never forget nor underestimate the criminal mind. Criminals don't respect the law. They won't be filing a brief in opposition to the suit; there will be a firebomb and a bullet waiting."

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

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

"Thank you, Madame Speaker. I've read through as much of this bill as I could. And I think I like about 15% of it. And so I would like to register reservations. And I hope it's changed in the next Committee."

The Chair addressed the members, stating:

"Members, before we move on to any other bills on this page, I am concerned about the comments made by Representative Moses that certain pages were missing. If Members see other pages that are missing, if you can contact either the Clerk's Office or the Sergeant-at-Arms Office to make sure that you have all the pages. It is essential that all Members have all the pages and this bill will be up for Third Reading two days from now, so before that time if you find that any pages are missing, if you can contact either the Clerk's Office or the Sergeant-at-Arms Office to have a full copy."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2003, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ILLEGAL USE OF CONTROLLED SUBSTANCES," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Ontai and Takumi being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 496-04) recommending that H.B. No. 1820, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1820, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Ontai and Takumi being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 497-04) recommending that H.B. No. 2139, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2139, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Ontai and Takumi being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 498-04) recommending that H.B. No. 2140, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2140, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MANDATORY CONTINUING EDUCATION FOR PHARMACISTS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Ontai and Takumi being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 499-04) recommending that H.B. No. 2147, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2147, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM COMMERCIAL CODE," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Ontai and Takumi being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 500-04) recommending that H.B. No. 2569, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, 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 NIIHAU SHELL PRODUCTS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Ontai and Takumi being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 501-04) recommending that H.B. No. 2223, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2223, entitled: "A BILL FOR AN ACT RELATING TO BOXING," passed Second Reading and was placed on the calendar for Third Reading with Representatives Ontai and Takumi being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 502-04) recommending that H.B. No. 2417, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2417, entitled: "A BILL FOR AN ACT RELATING TO REAL ESTATE LICENSING," passed Second Reading and was placed on the calendar for Third Reading with Representatives Ontai and Takumi being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 503-04) recommending that H.B. No. 2418, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2418, entitled: "A BILL FOR AN ACT RELATING TO ABANDONED APPLICATIONS FOR PROFESSIONAL AND VOCATIONAL LICENSES," passed Second Reading and was placed on the calendar for Third Reading.

Reading with Representatives Ontai and Takumi being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 504-04) recommending that H.B. No. 2421, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2421, entitled: "A BILL FOR AN ACT RELATING TO THE LICENSING REQUIREMENTS FOR PRIVATE DETECTIVES AND GUARDS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Ontai and Takumi being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 505-04) recommending that H.B. No. 2423, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2423, entitled: "A BILL FOR AN ACT RELATING TO COSMETOLOGY LICENSE RESTORATION," passed Second Reading and was placed on the calendar for Third Reading with Representatives Ontai and Takumi being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 506-04) recommending that H.B. No. 2426, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2426, entitled: "A BILL FOR AN ACT RELATING TO THE LICENSING REQUIREMENTS FOR ELEVATOR MECHANICS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Ontai and Takumi being excused.

SUSPENSION OF RULES

On motion by Representative Lee, seconded by Representative Meyer 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 Ontai and Takumi were excused.)

STANDING COMMITTEE REPORTS

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 507-04) recommending that H.B. No. 2345, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2345, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL LANDS," passed Third Reading by a vote of 49 ayes, with Representatives Ontai and Takumi being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 508-04) recommending that H.B. No. 2167, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2167 pass Third Reading, seconded by Representative Lee.

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

"Yes, I'd like to speak in opposition to Stand. Com. 508. This is a bill which the State tells the counties how to do a job that the counties are pretty sensitive to, and that's preserving public access to our shoreline and also to basically our nature areas. You know, hiking trails, etcetera. I don't know what's behind this action of direct State involvement in something that's normally a county issue, but I think we ought to leave this to the counties. And expect that the counties are able to handle such issues on their own. Thank you."

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

The Chair addressed the Members, stating:

"Members, this is Third Reading, if you have opposition, if you could submit either your green slips or your pink slips to the respective Floor Leaders."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2167, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ACCESS," passed Third Reading by a vote of 43 ayes to 6 noes, with Representatives Blundell, Fox, Jernigan, Meyer, Souki and Stonebraker voting no and with Representatives Ontai and Takumi being excused.

At 1:19 o'clock p.m., the Chair noted that H.B. Nos. 2345 and 2167 passed Third Reading.

THIRD READING

H.B. No. 1828, HD 1:

Representative Saiki moved that H.B. No. 1828, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. I'm standing to speak against House Bill 1828, which is the bill titled, 'Relating to Public Order'.

"Thank you. Madame Speaker, I said to Members the other day that this bill really is going to impact the mentally unstable and those who are homeless. I know there is a section in the bill on page 2 that says if the person who is charged for not using a restroom has a medical condition verified by a licensed physician, then that person will not be subject to a fine or community service.

"Madame Speaker, I don't really think homeless people always walk around with a physician's report saying they're medically unable to distinguish between using a tree or using a restroom. I also don't think, Madame Speaker, that people that are mentally unstable have a purse or a wallet containing a physician's report. What you're doing is going to drag these people in before the court system. And these are the very people that we want to be able to trust government. We want to be able to provide them services. We want to be able to help them. We don't want to drag them into an alienating

experience before a court, and then say, 'well you won't be fined \$200 or you won't have to do 8-hours community service but you're going to have to go to a doctor or some medical professional and get some sort of a certificate saying that you're mentally unbalanced.' I mean, Madame Speaker, it is so wrong, it is such a wrong way to go.

"The first thing we should do is look in the areas where this is occurring. We should look at funding the, what are they called? They are called self-cleaning toilets. Look at funding these facilities. They have them in Mexico. They have them in Paris. They have them other places where people are on the streets and walking around and are going to need to use some sort of a facility, or unfortunately a spot in an alley or a tree. Madame Speaker, there is a way to do this that isn't going to make people afraid. More afraid and more alienated than they are already.

"I'd like also to ask Members to look at page 1 of the bill. And then I'd like them to particularly, my male colleagues, to just think back on their period of time, when they have been out, where they might possibly be observed by someone in the public. Look at page 1 and here's the language, if the person intentionally or knowingly urinates in any area where such an act is likely to be observed by any member of the public, that person commits the offense. How many of you have been on all-day hiking trips where other members of the public are present? How many of you have conveniently gone off the trail and have relieved yourself? On a tree or behind a tree but where you could be observed by a member of the public. Under this strict language of this bill, someone could claim, okay that's an offense. You have committed a violation relating to public order.

"Madame Speaker, this is such a wrong way to go. That one provision just shows how out of line this whole bill is. I mean it just is out of line. But when you apply it to the very people that we need to help the most, those who are mentally unstable, those who are homeless. When you say to them we're going to make you do 8 hours of community service or fine you \$200, then I say what we are doing is cruel. Absolutely cruel to the very people that we should be helping the most. I would really urge Members to just say, 'let's recommit this bill'. Don't let it go forward. It's shameful, Madame Speaker. Thank you."

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

"Thank you very much, Madame Speaker. I would like to speak in strong support of this bill. First of all, this is not aimed at the mentally ill. The testimony that we've heard clearly indicated that this was aimed at individuals who are waiting at the bus stop and relieve themselves in the bushes. These people are not the mentally ill. If the person is mentally ill, then the language in this bill protects them. Because you have to intentionally or knowingly know. The mental state required will protect the mentally ill.

"Secondly, the comments regarding men who are on a hiking trail will be protected in this particular bill because it requires that there's no toilet facilities available or in site. The bill clearly said that you will not be found guilty of this particular statute if you relieve yourself at an area where there are no toilet facilities.

"And third, this apparently was brought upon because the businesses in the downtown area. They are complaining of this safety and public health problem that we have regarding against defecating and urinating in these areas. There are toilet facilities available in some parts of downtown, and apparently, where those are available for the public to use to relieve themselves. So I think we should not really focus this as a bill

that is attacking the mentally ill. In fact the police officers that came to testify said, 'No we will not be focusing on those individuals'. They do have, the police officers, who are the gatekeepers in our community in enforcing our laws, do have certain discretion. It doesn't matter sometimes what we write on these laws. We have to rely on the gatekeepers, who are the police officers. And then when it passes the police officers discretion, it does go to the prosecutors who will also be gatekeepers. They know what this bill will do. They will know what this is enacting. And they know that this bill is aimed at those individuals who knowingly and intentionally relieve themselves despite the fact that there's a bathroom 20 feet away. Thank you very much."

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

"Yes, Madame Speaker. I rise to speak on behalf of House Bill 1828, HD 1. Madame Speaker, given the subject matter of the bill, I guess I can say this measure is the Downtown Neighborhood Board's number 1 and number 2 issue. Sorry, kindergarten humor. I'm sorry.

"This problem is a serious matter for many merchants in our State who deal with this problem everyday. But not only is this a problem for business, Madame Speaker, but it really is a serious public health issue. And for the record, you know this bill specifically excludes those with a known mental illness or other illness.

"The previous speaker talked about hiking. There's a hiking exemption, golfing exemption, camping exemption, whatever example the previous speaker gave. And you know Madame Speaker, as we all know, during the interim, we really had a serious problem at our own State Capitol. And I understand that the person doing that didn't have a mental illness, and supposedly wanted to express his political views in some extreme way. But that shouldn't be an excuse, Madame Speaker. Unfortunately, in this era with SARS and other transmitted diseases, we really are forced to take a position on this issue. Thank you."

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

"Thank you, Madame Speaker. I did register my no vote.

"And I would like to explain reasons. And I really got to go, so I will make it real quick. Madame Speaker, first of all, I would like to have the words of my colleague from Kailua adopted as my own. But also I never thought I'd see the day when we make human bodily functions a source of a crime. I guess as your Health Chair, I realize that although it's not targeted to people who are homeless or mentally ill, you know they are the one who are, I think the most prevalent in the cases where the public is observing people doing in. And it's not a crime to be homeless. But if you are homeless, where do you go to use the bathroom? I mean, here we are sitting in our nice offices and building and we have access to many bathrooms here. But you know, when you think about the City for example, they've closed all their restrooms after a certain time. And it's illegal to even enter a park after 10 o'clock. You go to a store, and you know, unless you buy something, you're not allowed to use the restroom. So if you're homeless, you don't have access to any restroom. So I don't think we can just take it from our point of view and our seat as to how things should be.

"I'm sure it makes people uncomfortable to see people doing that but you know, it's a public health problem, it's not a crime. It's a public health problem when people do that. I don't think they, there are very few people who do it because they want to do it and be seen in public. And if it's a public health problem

then we need to find a public health solution. Meaning, like the Representative from Kailua said, we need to find maybe more public facilities, in places where people like that do visit. Or we need to find out like how they did with the homeless who are being charged with vagrancy. We need to find outreach workers who can provide the services and access to services so that these people are not put in that kind of situation. But I just feel that on the basis, at the very base level, this bill doesn't really show the compassion that we should have to people in this situation. And I know there are better ways of handling this problem and handling this situation. So for that reason I am voting no. And I hope we do look at other alternatives as well. Thank you, Madame Speaker."

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

"Thank you, Madame Speaker. I rise in opposition.

"First I want to comment, I'm a little surprised that we're putting in this bill that really people are guilty until they prove themselves innocent. And the way they have to prove themselves innocent is to determine that they're mentally ill, that the toilets in the given area were broken or they were closed down and there was no other alternative, or the fact that they have some physical illness that caused them not to make it, let's say to a bathroom in time. And that really concerns me that these people are truly guilty and the burden of proof is on them.

"I want to explain to my colleagues that I was on a trip to Chicago, and I went into a neighborhood and I tried to use a bathroom and I went into store after store and the shop owners would not wait on me. They would not come up and talk to me. And I would stand there. I would ask if I could get help and they said no. So another thing that I want to point out to people, if this is being brought about because the business community is saying they're tired of seeing people go to the bathroom on the streets in downtown Honolulu, what I would like to ask, are the business owners friendly? Are they open? Are they willing to allow people to use their restrooms? Or in fact, are they sending people to just go down the street and find another restroom. You know, what is their part in solving the problem?

"In downtown Honolulu, like in many cities, do we have really good signs that say where our public restrooms are? In fact, if we have bus terminals, why don't we have restrooms located next to the bus terminals? Are we being friendly to people that need to use the restroom? I ask that question.

"The other thing, I want to point out is it's been brought to my attention by people in my district. Why don't we have rest stops on our highway? At least on the Big Island, there's a lot of people who have to drive quite a ways before they find a restroom and many people look at our State parks as the place you go to the restroom if you are traveling around the island. And yet I'm told that some people won't use those restrooms because they are so filthy and dirty. That why would they use them, but they walk in, turn around, and walk out. So the other question is what are we doing to take care of the public restrooms that we have available? So that people don't feel that they have to go out in the 'back forty' to go to the bathroom. So these are things I want to point out and these are the reasons I am voting against the bill. Thank you."

Representative Leong rose in opposition to 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 Finnegan rose in opposition to the measure and asked that the remarks of Representatives Thielen and Arakaki be entered in the Journal as her own, and the Chair "so ordered." (By reference only.)

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

"In opposition. I think it should be handled on a county or City basis. I think it's a homerule issue. The Big Island is very unique. You can go 50 miles without any facilities. And I think it would be a hardship on my constituents to support this bill. So I'm in opposition."

Representative Thielen rose to respond, stating:

"Thank you. I know it's the second time, Madame Speaker. I just would like the Members across the aisle to think of the word that was said by the Chair by Health Committee: 'compassion'. And when you think of compassion, this bill should be sent right back to Committee. It should never move forward. Madame Speaker, I know that one Representative said, well first of all, I will give you the hiking, that's fine. If there isn't a toilet somewhere near where you are hiking, then fine. The bill will provide for an exemption. But there's nothing in the bill that says, if you're mentally unstable or if you're homeless, this won't apply to you. So we go back to the whole idea of compassion. Compassion and problem solving. You do that by working together to make the restrooms available as the Representative from the Big Island noted so aptly. You make these restrooms available either within the facility of the restaurant or wherever it is that is complaining of this occurring or you do the self-cleaning toilets. And we go ahead and we work on funding of those. And get them put throughout the area where this seems to be a problem. But we hold out compassion for people. What has happened with you all? What has happened? Where have you moved so far away from what you really should believe and that's compassion for people that are homeless or mentally unstable. What has happened to you all?"

Representative Meyer rose to speak, stating:

"Thank you, Madame Speaker. I want to thank the Representative from Kailua for bringing up a lot of really large problems with this bill. When I first saw it, I thought well this is a problem. And I've been down alleys that smell horrible and even the staircase at the Capitol at one time. And you know this is not something you want to put up with in a civilized world."

The Chair interrupted, asking:

"Representative Meyer, will you state your position?"

Representative Meyer continued, stating:

"I'm going to be voting against this measure.

"I think many of us have seen that as a town grows or a problem with homelessness, it becomes harder and harder to find restrooms. My sister lives on the mainland and she's a salesperson, and you know she'd be going from business to business and she said San Francisco was really horrible. I mean even the McDonalds wouldn't let you use the bathroom. And so it comes down to where are people supposed to go to the restroom? And so the last trip I took to San Francisco, San Francisco has installed these public bathrooms that are self-cleaning down by Fisherman's Wharf. There was one down by the Port of San Francisco too. We were doing the public transportation thing. We took the ferry from Vallejo and over to San Francisco, took the BART, took the trolley, did all those

things and boy were we happy that there was one of those bathrooms there. I had my grandson and my niece and so I thought gosh, we're going to have to go into one of these. I put the 25 cents in and it was not some horrible experience. It looked kind of funny sitting there, but it certainly fills the need and is something the City and County of Honolulu should consider. Downtown Honolulu would be well served if we looked at that model. Thank you, Madame Speaker."

Representative Sonson rose to respond, stating:

"Second time, still in support. I would like to point the Members to page 2 of this bill, section 3. I think that clearly states in section B that this section shall not apply where the person failed to use a restroom or other toilet facility because of in section D, the lack of an available restroom or other toilet facility. So the argument that there are no restrooms or that the park's restrooms are closed is not a very good one. This bill thinks of that. This is compassionate. This is not aimed at those vulnerable people. This is aimed at individuals who chooses to, who intentionally choose to use the bathroom, relieve themselves despite the fact that there are restrooms or other toilet facilities available. Thank you."

At this time, Representative Ito called for the previous question.

The chair addressed Representative Ito, stating:

"No. Well, actually we can't call for the question. Can you withdraw that statement? We are going to move on to another bill."

Representative Ito withdrew his motion to call for the previous question.

The motion was put to vote by the Chair and carried, and H.B. No. 1828, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ORDER," passed Third Reading by a vote of 33 ayes to 16 noes, with Representatives Arakaki, Blundell, Evans, Finnegan, Hale, Halford, Jernigan, Kahikina, Kaho'ohalahala, Leong, Meyer, Moses, M. Oshiro, Schatz, Shimabukuro and Thielen voting no and with Representatives Ontai and Takumi being excused.

H.B. No. 2024, HD 1:

Representative Saiki moved that H.B. No. 2024, HD 1, pass Third Reading, seconded by Representative Lee.

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

Representative Jernigan's written remarks are as follows:

"Madam Speaker, I am in opposition to HB-2024.

"I was unable to cast a "no" vote because no discussion was allowed on this measure. The gavel was struck before I could rise in opposition. This measure further erodes the rights of gun ownership.

"This is an unneeded measure that would create a hardship on firearm owners. Many firearm owners have collections valued in the \$100k dollar range, these collections require proper storage to prohibit deterioration. HPD has testified against this measure in the past because they have no provisions to maintain them. This measure will prohibit the sale of these valuable assets. Most couples involved in a divorce need to convert assets to cash for division, and to pay attorney's fees.

"Madam Speaker, the committee report stated: 'Although the law requires individuals restrained by court order to remove firearms from their control by sale, surrender, or transfer, some individuals retain control over their firearms by transferring them to friends and relatives who allow free access to the firearms. Your Committee has amended this bill by clarifying that individuals restrained by court order cannot dispose of their firearms by transferring ownership.'

"Madam Speaker, the safety of the person requesting the court order is protected as much as possible under the current law allowing transfer of firearms. The county police automatically take possession of all firearms and ammunition possessed by the person named in the order. That person must provide a bill of sale or other legal document to the person to whom the firearms are to be transferred. The transferee must present the county police with that document and permits to acquire firearms. In order for a person to acquire a permit they must pass a rigid background check required pursuant to Hawaii firearms statute. Once they receive the firearms from the police they are subject to the absolute liability statute for any damage or injury resulting from the use of the firearm, and are forbidden by law to permit any person disabled under S-134 to possess firearms."

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

Representative Lee's written remarks are as follows:

"I am in support of this bill. The bill would prohibit the transfer of a firearm while a restraining order is in effect. Currently, there is nothing to prohibit domestic violence perpetrators from transferring ownership of a firearm while a restraining order is in effect.

"Under the current provisions of the law, friends and relatives may assume ownership of the firearm, thus allowing the domestic violence perpetrator continued access to the firearm.

"Guns are used in over half of all violent crimes in the nation. In Hawaii, 13 or approximately 1/3 of all domestic violence murders in the last five years were committed using some type of firearm. Incidents have been reported in Hawaii in which the new girlfriend of a domestic violence perpetrator has been allowed to assume possession of the perpetrator's firearm thus insuring him of continued access to his weapon. County Police Departments have expressed grave concerns about this, but feel helpless to stop it without a change in the firearms statute.

"While firearms storage capacity may be a problem for some police facilities, there is no other safe substitute for maintaining restricted firearms in police custody. If necessary, County Police Departments should be provided with additional resources to accommodate this critical task.

"Although terrorist threats with firearms have been extensively publicized, domestic violence homicides involving firearms are much more common, and devastate the lives of domestic violence victims on a daily basis.

"I urge my colleagues to support this measure."

The motion was put to vote by the Chair and carried, and H.B. No. 2024, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSFER OF OWNERSHIP OF FIREARMS AND AMMUNITION," passed Third Reading by a vote of 45 ayes to 4 noes, with Representatives Ito, Jernigan,

Meyer and Moses voting no and with Representatives Ontai and Takumi being excused.

H.B. No. 2298, HD 1:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2298, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DISQUALIFICATION OF JUDGES," passed Third Reading by a vote of 49 ayes, with Representatives Ontai and Takumi being excused.

H.B. No. 2299, HD 1:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2299, HD 1, entitled: "A BILL FOR AN ACT RELATING TO APPELLATE COURT COSTS," passed Third Reading by a vote of 49 ayes, with Representatives Ontai and Takumi being excused.

H.B. No. 2686, HD 1:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2686, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE LIQUOR COMMISSION," passed Third Reading by a vote of 49 ayes, with Representatives Ontai and Takumi being excused.

H.B. No. 2789, HD 1:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2789, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SEXUAL ASSAULT," passed Third Reading by a vote of 49 ayes, with Representatives Ontai and Takumi being excused.

H.B. No. 2019:

Representative Saiki moved that H.B. No. 2019, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. I rise in strong support of House Bill 2019.

"Madame Speaker, this measure is a very effective and a good one that is necessary now. As we all know with the advent of the internet and scanning machines, and so forth, if people have your name, birth date, and social security number, they can basically steal your identity, purchase products, take out loans, do all kinds of financial mischief, which could have devastating consequences on many innocent victims. Not long ago, we had the process of having your social security number taken off of your state driver's license. This measure steps in the right direction and continues that by now looking at the counties and saying, counties shall not put their social security numbers on those kinds of identification cards. This is a small bill. It's very short, but it has long reaching consequences. And I think it's again another good step towards ensuring the security of people in Hawaii, and making sure that identity theft is something that is very difficult if you're going to pick on a Hawaii resident. So for those reasons, I urge my colleagues to support this measure as well."

The motion was put to vote by the Chair and carried, and H.B. No. 2019, entitled: "A BILL FOR AN ACT RELATING TO SOCIAL SECURITY NUMBERS," passed Third Reading by a vote of 49 ayes, with Representatives Ontai and Takumi being excused.

At 1:44 o'clock p.m., the Chair noted that H.B. Nos.: 1828, HD 1; 2024, HD 1; 2298, HD 1; 2299, HD 1; 2686, HD 1; 2789, HD 1; and 2019 passed Third Reading.

INTRODUCTION OF RESOLUTIONS

By unanimous consent, the following resolution (H.R. No. 25) and concurrent resolution (H.C.R. No. 42) were referred to Printing and further action was deferred:

H.R. No. 25, entitled: "HOUSE RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO IDENTIFY TEN AREAS OR ISSUES THAT ARE OF CURRENT AND URGENT CONCERN REGARDING THE FORESTS OF THE STATE," was jointly offered by Representatives Thielen, Kanoho and Bukoski.

H.C.R. No. 42, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO IDENTIFY TEN AREAS OR ISSUES THAT ARE OF CURRENT AND URGENT CONCERN REGARDING THE FORESTS OF THE STATE," was jointly offered by Representatives Thielen, Kanoho and Bukoski.

ADJOURNMENT

At 1:45 o'clock p.m. on motion by Representative Lee, seconded by Representative Meyer and carried, the House of Representatives adjourned until 12:00 o'clock noon tomorrow, Thursday, February 26, 2004. (Representatives Ontai and Takumi were excused.)

TWENTY-FOURTH DAY

Thursday, February 26, 2004

The House of Representatives of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004, convened at 12:02 o'clock p.m., with the Speaker presiding.

A this time, the Chair announced:

"May we have just a very short recess to allow some of our visitors to come in?"

At 12:02 o'clock p.m., Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:03 o'clock p.m.

The invocation was delivered by Representative Sol P. Kaho`ohalahala, after which the Roll was called showing all members present with the exception of Representatives Herkes, B. Oshiro, Takamine and Takumi, who were excused.

On motion by Representative Lee, seconded by Representative Meyer and carried, reading of the Journals was dispensed with and the Journals of the Ninth, Tenth, Eleventh, Twelfth, Thirteenth and Fourteenth Days were approved. (Representatives Ito, Herkes, B. Oshiro and Takumi were excused.)

GOVERNOR'S MESSAGE

The following message from the Governor (Gov. Msg. No. 136) was received and announced by the Clerk and was placed on file:

Gov. Msg. No. 136, transmitting the Hawaii State Department of Health 2003 Annual Report, Healthy People, Healthy Communities, Healthy Islands.

INTRODUCTIONS

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

Representative Stonebraker introduced members of the Associated Builders and Contractors (ABC):

Mr. Bob Piper, ABC National Vice Chair for the Western Region;

Mr. Bill Spencer, ABC Vice President for Government Affairs;

Mr. Robert Joslin, ABC Hawaii's Chairman of the Board;

Ms. Addie Joslin, Mr. Joslin's niece;

Ms. Berni Paik-Apau, ABC Hawaii Board Member; and

Mr. Gary Wiseman, ABC Hawaii Chapter President.

Representative Kahikina introduced 5th grade students from Maili Elementary School, and their teacher, Ms. Lynn Kubo.

Representative Kahikina also introduced visitors from California, Mr. Dennis Kilburg and Mrs. Fran Kilburg, and

their daughter Ms. Victoria Kilburg. They were accompanied by Ms. Harriet Kam and Mr. Joe Tassill.

Representative Luke introduced Lt. Nicholas Dvonch, a Ranger with the U.S. Army 82nd Airborne stationed at Fort Bragg, N. Carolina, who recently returned from 1 year of service in Iraq. He is the son of Mr. Richard Dvonch, Chief Attorney for the House of Representatives.

Representative Thielen introduced Ms. Corina Eckl and Ms. Hy Gia Park of the National Conference of State Legislatures.

At 12:14 o'clock p.m., Representative Saiki requested a recess, and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:36 o'clock p.m.

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>
245, SD2	Committee on Transportation, then to the Committee on Finance
2246, SD1	Jointly to the Committee on Agriculture and the Committee on Water, Land Use and Hawaiian Affairs
2427, SD1	Committee on Education
2522	Committee on Finance
2523	Committee on Finance
2524	Committee on Finance
2525	Committee on Finance
2526	Committee on Finance
2527	Committee on Judiciary, then to the Committee on Finance
2529	Committee on Finance
2825	Committee on Labor and Public Employment, then to the Committee on Judiciary
3179	Committee on Finance
3182	Committee on Finance

The following concurrent resolution (H.C.R. No. 41) was referred to committee by the Speaker:

<u>H.C.R.</u> <u>Nos.</u>	<u>Referred to:</u>
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- 41 Committee on Water, Land Use and Hawaiian Affairs

UNFINISHED BUSINESS

At this time, the Chair stated:

"Members, the three House bills that are listed under Unfinished Business will be deferred one legislative day.

It's good to see Representative Ontai back, but the Chair of the Education Committee has not arrived back in the State of Hawaii, so that's why we deferring."

H.B. No. 33, HD 2:

By unanimous consent, H.B. No. 33, HD 2, was deferred one legislative day.

H.B. No. 1895, HD 1:

By unanimous consent, H.B. No. 1895, HD 1, was deferred one legislative day.

H.B. No. 1897, HD 1:

By unanimous consent, H.B. No. 1897, HD 1, was deferred one legislative day.

STANDING COMMITTEE REPORTS

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 509-04) recommending that S.B. No. 1322, SD 1, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 1322, SD 1, HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce, seconded by Representative Lee.

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

"Mr. Speaker, I have reservations on Stand. Com. 509. Mr. Speaker, I had a meeting with AlohaCare, which raised concerns about the bill that hadn't been brought to my attention earlier.

"AlohaCare is owned by community health centers and provides healthcare to many low income patients, so we really should take heed to their concerns. One of the big concerns they had is that giving for-profit insurance companies a tax break will lead to an unfair advantage, will not lower premiums, and will result in jobs leaving the State of Hawai'i. And I know there were some changes made on that last point.

"AlohaCare did ask that if we are inclined to move this bill forward, that at minimum, we do say that these new insurance companies should not have the right to bid on QUEST and Medicaid plans. Thank you."

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

"Good afternoon and thank you, Mr. Speaker. Mr. Speaker, I rise in strong support of this measure. Mr. Speaker, House Standing Committee Report 509 and its accompanying bill, this particular measure SB No. 1322 is a well-intended measure. It would allow for more competition in the health insurance market by eliminating the premium tax on health insurers. As a general principle, I think, Mr. Speaker, what we want to do is maximize choices. Maximize options for people in the State who are receiving and seeking health insurance.

"If I could draw briefly from a personal experience, when I'm not here, I'm employed by the Seventh Day Adventist Church as the in-house counsel and as a pastor as well. And pastors here, and employees of the Church have various options, a couple of them being HMSA and Adventist Health. If you live in Kailua, next to Castle Medical Center, Adventist Health is terrific. That's the option I choose. But when we have pastors on Neighbor Islands, Molokai and Lanai, having so few choices, it makes it really difficult.

"Compare that to a Seventh Day Adventist pastor who pastors, say in Los Angeles, the large number of options they have. The large amount of choices they have. It has nothing to do really with the Seventh Day Adventist Church. The Church would love to give its employees as many options. It has to do with the State regulatory framework, and the way in which we either encourage or hinder competition from entering a particular jurisdiction. And so what I want to do is make sure that employers of all stripes regardless of whether they are a nonprofit or for-profit employer, are able to provide as many option as possible to their employees. A measure like this, I think, is calculated to try to encourage competition. Bring in people who can provide these kinds of services. So I think it's a good thing.

"I did look at some of the amendments on this second page of the Standing Committee Report. I haven't had a chance to speak to anyone about them. I do wonder about them and I will probably take a closer look at them before Third Reading. I'm wondering if some of those amendments might have the effect of limiting the beneficial intent of this bill. Because really, what we want to do is increase options.

"People talk about jobs and whether jobs are fleeing out of the State. If we bring in more competition for health insurance here, more options for employers and employees, everyone benefits. Clearly the health providers are going to be here. You're not going to have a health plan where your employee is based on Oahu and you have to fly to California to see the doctor. That's not going to happen. So you're going to have providers here and I think the jobs that really matter will still be here. That's just going to be the nature of competition. You're not going to be able to run a business that provides healthcare to people in Honolulu and run it from New Jersey. I mean, the vast majority of people who provide the actual healthcare will have to, by necessity, be here. So for those reasons, Mr. Speaker, strongly supportive of this legislation and will watch it as it moves forward. Thank you."

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

"We did pass out this measure which actually came to the Health Committee last year. I'm speaking in favor of the Committee Report and the bill. I just want to express my concerns and why we didn't hear it last year.

"Basically, we were walking a very fine line here because it is supposed to level the playing field and increase competition in terms of health insurance providers. However, the situation here in Hawaii is unique because we do have two very large health insurance providers. And in that sense, it will sort of

level the playing field. But we also have smaller providers. And one of my concerns is that we do not create a situation where we're providing an unfair advantage to new companies coming in.

"The other concern I had was that the experience of some states on the mainland is that, they've had companies come in, and they take the healthiest of the population. They make a profit, and then they leave. That was one of the reasons why we required that they be based in Hawaii and that we have some assurance that the people they employ are going to be from Hawaii, and they are going to stay here. So those are some of my concerns and I hope to pass them over to the Consumer Protection Committee.

"I think it does have the potential of bringing in more competition, and offer more choices to our population. But we want to make sure by doing so we don't create an unintended consequence of getting rid of our smaller providers. So with those concerns Mr. Speaker, I would like to recommend that we pass this measure on. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1322, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION OF PREMIUMS," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce with Representatives Kanoho, M. Oshiro, Souki, Takamine and Takumi being excused.

SUSPENSION OF RULES

On motion by Representative Lee, seconded by Representative Meyer 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 Kanoho, M. Oshiro, Souki, Takamine and Takumi were excused.)

THIRD READING

H.B. No. 2380, HD 1:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2380, HD 1, entitled: "A BILL FOR AN ACT RELATING TO APPELLATE JURISDICTION," passed Third Reading by a vote of 46 ayes, with Representatives Kanoho, M. Oshiro, Souki, Takamine and Takumi being excused.

H.B. No. 2198, HD 1:

Representative Saiki moved that H.B. No. 2198, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Mr. Speaker, I would like to briefly speak in support of this measure. The important part of this bill is that students will be able to carry their own medication and not have it locked up somewhere. Often when the health aide is absent, the principals dispense medicine. They may be busy when a child needs such life saving medicine.

"Peanut allergy and other problems are increasing. A child may have a fatal allergic reaction if he's unaware that someone has given him food containing peanuts. Please allow kids to carry this life saving medication if parents and doctors agree. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 2198, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL HEALTH," passed Third Reading by a vote of 46 ayes, with Representatives Kanoho, M. Oshiro, Souki, Takamine and Takumi being excused.

H.B. No. 2223:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2223, entitled: "A BILL FOR AN ACT RELATING TO BOXING," passed Third Reading by a vote of 46 ayes, with Representatives Kanoho, M. Oshiro, Souki, Takamine and Takumi being excused.

H.B. No. 2417:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2417, entitled: "A BILL FOR AN ACT RELATING TO REAL ESTATE LICENSING," passed Third Reading by a vote of 46 ayes, with Representatives Kanoho, M. Oshiro, Souki, Takamine and Takumi being excused.

H.B. No. 2418:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2418, entitled: "A BILL FOR AN ACT RELATING TO ABANDONED APPLICATIONS FOR PROFESSIONAL AND VOCATIONAL LICENSES," passed Third Reading by a vote of 46 ayes, with Representatives Kanoho, M. Oshiro, Souki, Takamine and Takumi being excused.

H.B. No. 2421:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2421, entitled: "A BILL FOR AN ACT RELATING TO THE LICENSING REQUIREMENTS FOR PRIVATE DETECTIVES AND GUARDS," passed Third Reading by a vote of 46 ayes, with Representatives Kanoho, M. Oshiro, Souki, Takamine and Takumi being excused.

H.B. No. 2423:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2423, entitled: "A BILL FOR AN ACT RELATING TO COSMETOLOGY LICENSE RESTORATION," passed Third Reading by a vote of 46 ayes, with Representatives Kanoho, M. Oshiro, Souki, Takamine and Takumi being excused.

H.B. No. 2426:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2426, entitled: "A BILL FOR AN ACT RELATING TO THE LICENSING REQUIREMENTS FOR ELEVATOR MECHANICS," passed Third Reading by a vote of 46 ayes, with Representatives Kanoho, M. Oshiro, Souki, Takamine and Takumi being excused.

At 12:45 o'clock p.m., the Chair noted that H.B. Nos. 2380, HD 1; 2198, HD 1; 2223; 2417; 2418; 2421; 2423; and 2426 passed Third Reading.

INTRODUCTION OF RESOLUTIONS

By unanimous consent, the following concurrent resolutions (H.C.R. Nos. 43 through 44) were referred to Printing and further action was deferred:

H.C.R. No. 43, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE UNITED STATES CONGRESS TO ELIMINATE STATE AND LOCAL COST SHARE REQUIREMENTS FOR HOMELAND SECURITY GRANTS," was offered by Representative Hale.

H.C.R. No. 44, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE GOVERNOR TO STUDY THE ROLE OF GESTATIONAL ENVIRONMENTS, GENTLE BIRTHING PRACTICES, DOMESTIC HARMONY AWARENESS, AND APPROPRIATE AND SUFFICIENT TOUCH AND THEIR CONNECTION TO PUBLIC POLICY CONCERNS THAT INCLUDE SUBSTANCE ABUSE, ALCOHOLISM, AND DOMESTIC VIOLENCE," was offered by Representative Hale.

ANNOUNCEMENTS

Representative Kawakami, for the Committee on Finance, requested a waiver of the 48-hour notice requirement for decision making on only two short form bills H.B. Nos. 2742 and 2743, and the Chair "so ordered."

Representative Kawakami: "It will be heard at the conclusion of our fourth agenda today. Thank you."

ADJOURNMENT

At 12:46 o'clock p.m. on motion by Representative Lee, seconded by Representative Meyer and carried, the House of Representatives adjourned until 12:00 o'clock noon tomorrow, Friday, February 27, 2004. (Representatives Kanoho, M. Oshiro, Souki, Takamine and Takumi were excused.)

TWENTY-FIFTH DAY

Friday, February 27, 2004

The House of Representatives of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004, convened at 12:09 o'clock p.m., with the Vice-Speaker presiding.

The invocation was delivered by Ms. Haunani Apoliona, Chair, OHA Board of Trustees, after which the Roll was called showing all members present with the exception of Representatives Chang, Halford, M. Oshiro and Karamatsu, who were excused.

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

INTRODUCTION

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

Representative Hale introduced Mr. Myeong Jin Cha, spokesman for the Gyeonggi Provincial Government; Mr. Bruce Kim, State department interpreter; and her committee clerk, Ms. Cody Vargo.

At 12:20 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:05 o'clock p.m.

ORDER OF THE DAY

COMMITTEE ASSIGNMENTS

The following resolution (H.R. No. 25) and concurrent resolutions (H.C.R. Nos. 42 through 44) were referred to committee by the Speaker:

H.R.
No.Referred to:

25 Committee on Water, Land Use and Hawaiian Affairs, then to the Committee on Finance

H.C.R.
Nos.Referred to:

42 Committee on Water, Land Use and Hawaiian Affairs, then to the Committee on Finance

43 Committee on Public Safety and Military Affairs, then to the Committee on Finance

44 Committee on Health

COMMITTEE REASSIGNMENT

The following bill was re-referred to committee by the Speaker:

H.B.
No.Re-referred to:

648 Committee on Consumer Protection and Commerce

UNFINISHED BUSINESS

The Chair addressed the Members, stating:

"Members, the three House Bills listed under Unfinished Business will again be deferred one legislative day. Moving on to Reports of Standing Committee."

H.B. No. 33, HD 2:

By unanimous consent, H.B. 33, HD 2, was deferred one legislative day.

H.B. No. 1895, HD 1:

By unanimous consent, H.B. 1895, HD 1, was deferred one legislative day.

H.B. No. 1897, HD 1:

By unanimous consent, H.B. 1897, HD 1, was deferred one legislative day.

Representative Fox rose and asked:

"Is this an action we can discuss in any way? I'm a little puzzled because I was given really clear, clear indication that once Representative Takumi had returned we would take up these amendments. Is he back?"

At 1:06 o'clock p.m., Representative Saiki requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:06 o'clock p.m.

STANDING COMMITTEE REPORTS

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 510-04) recommending that H.B. No. 1824, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1824, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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. 1824, entitled: "A BILL FOR AN ACT RELATING TO ELECTRICIANS AND PLUMBERS," passed Second Reading and was placed on the calendar for Third Reading with Representative Meyer voting no and with Representatives Halford and Takamine being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep.

No. 511-04) recommending that H.B. No. 2064, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2064, entitled: "A BILL FOR AN ACT RELATING TO EXEMPTING ROTH INDIVIDUAL RETIREMENT ACCOUNTS FROM ATTACHMENT OR SEIZURE," passed Second Reading and was placed on the calendar for Third Reading with Representatives Halford and Takamine being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 512-04) recommending that H.B. No. 2558, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, 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 PENSION PLANS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Halford and Takamine being excused.

Representatives Hiraki and Hamakawa, for the Committee on Consumer Protection and Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 513-04) recommending that H.B. No. 2363, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2363, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC BENEFIT CORPORATIONS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Halford and Takamine being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 514-04) recommending that H.B. No. 1737, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1737, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

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

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

"Request a ruling on a conflict. I'm in the mortgage business." And the Chair declared, "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. 1737, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE BROKERS AND SOLICITORS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Halford and Takamine being excused.

Representatives Kanoho and Abinsay, for the Committee on Water, Land Use and Hawaiian Affairs and the Committee on Agriculture presented a report (Stand. Com. Rep. No. 515-04) recommending that H.B. No. 2166, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2166, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"Yes, Madame Speaker. I need to rise faster. You are moving along very fast here. Very good. Very efficient. I wish to speak with some reservations on Stand. Com. Report 515-04.

"Madame Speaker and Members, again this bill is well intentioned and my due respect to the respective Co-Chairmen, but I believe that this bill infringes on the county. Land use for agricultural land has been transferred from the LUC to the county or within the 16 or 17 acres that they can work on. This becomes a county responsibility.

"Now I'm not in favor of gated communities, but I believe this decision on whether you should have a gated community on agricultural land that is under the aegis of the respective counties should be the responsibility of the respective County Councils and Planning Commissions and not of this office. And that's my concern here, Madame Speaker."

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

"Yes, I'm in opposition. For the similar reasons as the previous speaker. I voted for this in Committee and I missed this part on gated farm subdivisions. For instance, Kona has a very high value coffee crop. And some of the farm subdivisions are gated for security reasons. And for them to have to take their gates down and let free traffic move through their subdivisions will compromise their security of their crops over in storage and in the fields. So for the same reasons as the previous speaker, and for the aforementioned reasons I'm in opposition."

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

"Madame Speaker, I rise briefly in support. I'm just going to read the important provision that I would encourage everyone who is having any concerns about this bill to read themselves. 'It shall be presumed that a division or development does not fall in the permissible uses under subsection A and does not consist of farm dwellings if it includes any of the following: a golf course with lots situated along the fairways, a gated entry to a residential subdivision, including but not limited to, automatic or manual gates and security guard stations, limiting access to residents and guests only and not the general public; restrictive covenants that restrict agricultural uses otherwise permitted by zoning laws; or private country club facilities, member's accommodations, hotels, or other resort facilities'. Thank you very much, Madame Speaker."

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

"Thank you, Madame Speaker. In strong support. And very briefly to indicate this bill simply is an effort to prevent luxury estates on agricultural lands, because that definitely is not the intent of agricultural land. Certainly there will be a point in time where developments need to occur and there is the place for luxury estates but should that become necessary, then the development should be reclassified from agriculture to rural or to urban. But to have permissible use of luxury estates on agricultural land is just absolutely incorrect. 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. 2166, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND USE COMMISSION," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Blundell, Jernigan, Leong, Marumoto, Meyer, Moses, Ontai and Stonebraker voting no and with Representatives Halford and Takamine being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 516-04) recommending that H.B. No. 2004, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2004, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ILLEGAL USE OF CONTROLLED SUBSTANCES," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Halford and Takamine being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 517-04) recommending that H.B. No. 2143, as amended in HD 1, be recommitted to the Committee on Consumer Protection and Commerce.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2143, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BUSINESS REGULATION," was recommitted to the Committee on Consumer Protection and Commerce with Representatives Halford and Takamine being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 518-04) recommending that H.B. No. 2742, as amended in HD 1, be recommitted to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2742, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE GOVERNMENT," was recommitted to the Committee on Finance with Representatives Halford and Takamine being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 519-04) recommending that H.B. No. 2743, as amended in HD 1, be recommitted to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2743, HD 1, entitled: "A BILL FOR AN ACT RELATING TO NON-GENERAL FUNDS," was recommitted to the Committee on Finance with Representatives Halford and Takamine being excused.

At 1:13 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 1:13 o'clock p.m.

SUSPENSION OF RULES

On motion by Representative Lee, seconded by Representative Meyer 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 Halford and Takamine were excused.)

STANDING COMMITTEE REPORTS

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 520-04) recommending that H.B. No. 2049, HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2049, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY," passed Third Reading by a vote of 50 ayes, with Representative Halford being excused.

At 1:14 o'clock p.m., the Chair noted that H.B. No. 2049, HD 1, passed Third Reading.

The Chair addressed the Members, stating:

"Members, please note the 48-hour notice for Stand. Com. Reports Number 521-04 to 523-04 as listed on page 5.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 521-04) recommending that H.B. No. 2844, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 521-04 on H.B. No. 2844, HD 1, was deferred, and in accordance with Article III, Section 15, of the Constitution of the State of Hawaii, printed copies of H.B. No. 2844, HD 1, were made available to the members of the House.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep.

No. 522-04) recommending that H.B. No. 2630, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 522-04 on H.B. No. 2630, HD 2, was deferred, and in accordance with Article III, Section 15, of the Constitution of the State of Hawaii, printed copies of H.B. No. 2630, HD 2, were made available to the members of the House.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 523-04) recommending that H.B. No. 2005, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 523-04 on H.B. No. 2005, HD 1, was deferred, and in accordance with Article III, Section 15, of the Constitution of the State of Hawaii, printed copies of H.B. No. 2005, HD 1, were made available to the members of the House.

THIRD READING

H.B. No. 2020, HD 1:

Representative Saiki moved that H.B. 2020, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Madame Speaker, I would like to speak in strong support through this measure.

"This measure basically is about the trafficking of girls and women. We will be the first state in the nation to pass a law regarding sex tours in travel agencies. And I'm really quite proud of us for doing so. This Women's Caucus measure was strongly supported by the community. I don't think there was any negative testimony."

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2020, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROSTITUTION," passed Third Reading by a vote of 50 ayes, with Representative Halford being excused.

The Chair addressed the Members, stating:

Members, please note that House Bill 2003, House Draft 1 at the top of page 6. This measure will be deferred one Legislative Day.

H.B. No. 2003, HD 1:

By unanimous consent, H.B. 2003, HD 1, was deferred one legislative day.

H.B. No. 1820, HD 1:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 1820, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE," passed Third Reading by a vote of 50 ayes, with Representative Halford being excused.

H.B. No. 2139, HD 1:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2139, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE,"

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

H.B. No. 2140, HD 1:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2140, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MANDATORY CONTINUING EDUCATION FOR PHARMACISTS," passed Third Reading by a vote of 50 ayes, with Representative Halford being excused.

H.B. No. 2147, HD 1:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2147, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM COMMERCIAL CODE," passed Third Reading by a vote of 50 ayes, with Representative Halford being excused.

H.B. No. 2569, HD 1:

Representative Saiki moved that H.B. No. 2569, HD 1, pass Third Reading, seconded by Representative Lee.

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

"I rise in support and I'll basically sum it up. This is to protect not just consumers, but the Niihau shell makers. It keeps the market value high by preventing fraudulent Niihau shells. And it goes to content and the bill with the amendments would allow 80% to be considered with a labeled percentage. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 2569, HD 1, entitled: "A BILL FOR AN ACT RELATING TO NIIHAU SHELL PRODUCTS," passed Third Reading by a vote of 50 ayes, with Representative Halford being excused.

At 1:17 o'clock p.m., the Chair noted that H.B. Nos. 2020, HD 1; 1820, HD 1; 2139, HD 1; 2140, HD 1; 2147, HD 1; and 2569, HD 1 passed Third Reading.

INTRODUCTION OF RESOLUTIONS

By unanimous consent, the following resolution (H.R. No. 28) and concurrent resolution (H.C.R. No. 45) were referred to Printing and further action was deferred:

H.R. No. 28, entitled: "HOUSE RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO PROMOTE THE RECOVERY OF NATIVE PLANT SPECIES BY ENCOURAGING THE ESTABLISHMENT OF NATIVE TREE FARMS ON FORMER SUGAR LANDS AND NON-NATIVE FORESTED AREAS," was jointly offered by Representatives Thielen, Morita, Waters, Bukoski, Kanoho and Evans.

H.C.R. No. 45, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO PROMOTE THE RECOVERY OF NATIVE PLANT SPECIES BY ENCOURAGING THE ESTABLISHMENT OF NATIVE TREE FARMS ON FORMER SUGAR LANDS AND NON-NATIVE FORESTED AREAS," was jointly offered by Representatives Thielen, Morita, Waters, Bukoski, Kanoho and Evans.

ANNOUNCEMENTS

Representative Hamakawa announced: "Thank you, Madame Speaker. If you will turn to page F and G on the Order of the Day, and this is the Judiciary Committee's agenda for today. I'd like to ask for a waiver of the 48 hours for this agenda. Madame Speaker, notice was posted 2 days ago, but apparently we've only allowed for notice of 47 hours and 59 minutes," and the Chair "so ordered."

Representative Arakaki announced: "Thank you, Madame Speaker. I think most of the Members realize that patient safety and medical error is a great concern of our Committee both on the perspective of protecting the healthcare of our citizens, but also in terms of the rising cost of healthcare in the State of Hawaii.

"And I would like to invite on behalf of our Health Committee, all our Members and anyone from the general public to the patient safety informational briefing featuring Dr. Lucien Leep, who's a nationally renown patient safety expert for an informational briefing this afternoon at 3 o'clock to 4:30 in the Capitol Auditorium. And he'll be providing us with a background and evidence to support increasing our Legislative effectiveness related to improving patient safety here in Hawaii. Thank you, Madame Speaker."

ADJOURNMENT

At 1:19 o'clock p.m. on motion by Representative Lee, seconded by Representative Meyer and carried, the House of Representatives adjourned until 12:00 o'clock noon, Monday, March 1, 2004. (Representatives Halford was excused.)

TWENTY-SIXTH DAY

Monday, March 01, 2004

The House of Representatives of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004, convened at 12:06 o'clock p.m., with the Speaker presiding.

The invocation was delivered by Miss Teighler Gella, first grade student at St. Joseph School, after which the Roll was called showing all members present with the exception of Representatives Bukoski, Hiraki, Kaho`ohalahala and Takamine, who were excused.

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

GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 137 through 138) were received and announced by the Clerk and were placed on file:

Gov. Msg. No. 137, transmitting the 2003 State Energy Resources Coordinator's Annual Report, as submitted by the Department of Business, Economic Development, and Tourism.

Gov. Msg. No. 138, transmitting the Executive Office on Aging 2003 Annual Report, as submitted by the Department of Health.

SENATE COMMUNICATION

The following communication from the Senate (Sen. Com. No. 29) was received and announced by the Clerk:

Sen. Com. No. 29, transmitting S.C.R. No. 12, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION SUPPORTING INCREASING THE DEPTH OF BARBERS POINT HARBOR," which was adopted by the Senate on February 27, 2004.

INTRODUCTIONS

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

Representative Sonson introduced Ms. Rose Mojica of Canada, who was accompanied by former Representative Ted Mina and his wife, Mrs. Geri Mina.

Representative Karamatsu re-introduced Ms. Teighler Gella who gave the day's invocation. She was accompanied by her grandmother, Ms. Cari Rabago; aunt, Ms. Amoreena Rabago of Representative B. Oshiro's office; and infant cousin, Logan Rabago.

Representative Ontai introduced his friend, Ret. U.S. Army Special Forces, Major Steven Aspera.

Representative Finnegan introduced her niece, Ms. Nicole Pilialoa Pa'aluhī with the U.S. Air Force, who recently returned home from serving in Kuwait and Qatar.

At 12:13 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 12:53 o'clock p.m.

ORDER OF THE DAY

COMMITTEE ASSIGNMENTS

The following resolution (H.R. No. 28) and concurrent resolutions (H.C.R. Nos. 24 and 45) were referred to committee by the Speaker:

<u>H.R.</u> <u>No.</u>	<u>Referred to:</u>
28	Committee on Water, Land Use and Hawaiian Affairs

<u>H.C.R.</u> <u>Nos.</u>	<u>Referred to:</u>
24	Jointly to the Committee on Labor and Public Employment and the Committee on Higher Education, then to the Committee on Finance
45	Committee on Water, Land Use and Hawaiian Affairs

COMMITTEE REASSIGNMENTS

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

<u>H.B.</u> <u>Nos.</u>	<u>Re-referred to:</u>
267, HD1	Committee on Tourism and Culture, then to the Committee on Judiciary
2979	Committee on Judiciary

UNFINISHED BUSINESS

At this time, the Chair announced:

"Members, at this time we are on the Order of the Day, Unfinished Business. At this time, Members, the first three House Bills, H.B. No. 33, HD 2; H.B. No. 1895, HD 1 on page 2; and H.B. No. 1897, HD 1; will be deferred one Legislative Day.

H.B. No. 33, HD 2:

By unanimous consent, H.B. No. 33, HD 2, was deferred one legislative day.

H.B. No. 1895, HD 1:

By unanimous consent, H.B. No. 1895, HD 1, was deferred one legislative day.

H.B. No. 1897, HD 1:

By unanimous consent, H.B. No. 1897, HD 1, was deferred one legislative day.

"Members, the next measure Standing Committee Report Number 521-04 for House Bill Number 2844 will be moved to the end of Calendar today. Representative Lee."

Stand. Com. No. 521-04, and H.B. No. 2844, HD 1:

By unanimous consent, H.B. No. 2844, HD 1, was deferred to the end of the calendar.

SUSPENSION OF RULES

On motion by Representative Lee, seconded by Representative Meyer 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, Evans, Herkes, Kahikina, Kaho'ohalahala, Kanoho, Luke and Takamine were excused.)

UNFINISHED BUSINESS

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 522-04) recommending that H.B. No. 2630, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2630, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE RENTAL INDUSTRY," passed Third Reading by a vote of 29 ayes to 17 noes, with Representatives Blundell, Ching, Finnegan, Fox, Halford, Leong, Marumoto, Meyer, Mindo, Morita, Moses, Nishimoto, Pendleton, Stonebraker, Takai, Thielen and Wakai voting no, and with Representatives Bukoski, Evans, Kaho'ohalahala, Takamine and Tamayo being excused.

At 12:56 o'clock p.m., the Chair noted that H.B. No. 2630, HD 2 passed Third Reading.

Stand. Com. No. 523-04, and H.B. No. 2005, HD 1:

By unanimous consent, H.B. No. 2005, HD 1, was deferred one legislative day.

H.B. No. 2003, HD 1:

Representative Saiki moved that H.B. No. 2003, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. In opposition. Mr. Speaker, this bill is about dealing with the question of ice in these communities—a very serious matter. And I believe that the measures taken in this bill to deal with the problem are not commensurate with the problem itself, and I would like to refer to certain sections in the bill and try to talk about what I see is really happening.

"Let me refer to section 3 of the bill, on page 10, line 16, this is the subsection that deals with unlawful methamphetamine trafficking penalties. This section, starting on page 10 and running through the discussion of lesser levels of ice

possession, ending at line 6 on page 14, talks in detail about prison time that people will serve for this crime at various levels of possessing methamphetamine. I just want to make clear that the only way you go to prison under this section is if you manufacture, distribute or dispense methamphetamine or possess with the intent to manufacture, distribute or dispense. So this is only for manufacturing and trafficking, that's it.

"Now we previously had a Model Penal Code law in Hawaii. It was in operation from 1996 until 2002. And during that period of time, if you possessed a certain amount of crystal methamphetamine, you went to prison. And the reason that the Model Penal Code handles it in that way, is that the Prosecutor does not have to get into the question of your intent. You have enough crystal methamphetamine to be a dealer, you go to prison.

"In Act 161, we took some of that away. Now we are proposing to do this only for trafficking but leaving out the key fact that possessing a substantial amount of crystal methamphetamine essentially qualifies you as a dealer or trafficker. Now that has to be proven that that's what you were doing. So we've got 4 pages of the law here about something that is going to be virtually impossible to prove, compared to where we were with the Model Penal Code before 2002.

"Let me also refer to Section 4 of the bill, which is dealing with drug paraphernalia. Throughout this section, we have the words, 'primarily intended for use', 'primarily intended for use'. All of this means that you've got to establish that the intent of possessing the drug paraphernalia was to help somebody use it for illicit or for illegal purposes. The recommended fix to this would be to take out the word 'intent' and simply charge the person for having the drug paraphernalia. But that's not what we've got with this bill. We've got something that looks like it's more than it is. Just like section 3.

"The sections that start on page 5, Sections 5, 6 and 7, seem to do something about stiffening the penalties for crystal methamphetamine. In fact, these sections are clearly the opposite, 5, 6 and 7. Because what they do, is they say that if in the commission of a dangerous drug offenses in the first degree, this is in Section 5 on page 22, lines 6 through 15. If in the commission of an offense of the promotion of a drug in the first degree, under this section it involves methamphetamine or any of its components, there will be an indeterminate sentence of 20 years, and with not less than 1 year or greater than 10 years served. So this is a Class A felony. You're going to go to prison for at least a year. Under the previous language, this has been removed. Now you no longer go to prison, that language has been removed. The same thing for Section 6 for a smaller amount, 6 months. And Section 7, a smaller amount, 30 days. So where previously you went to prison, that's under the current law, you're gone. You're free, you don't go to prison.

"Finally under Sections 10 and 12, the bill purports to toughen the process of probation and parole. Under these two sections, the bill suggests that you may go to prison. But this is a classic 'Catch-22'. I never saw such a clear classic 'Catch-22'. You come before the Parole Board, but because you haven't completed treatment, the only way you go to prison is if the Parole Board says that you cannot benefit from any substance abuse program. Well here you are, you suddenly interrupted the process ..."

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

Representative Fox continued, stating:

"You're before the Parole Board because you have ceased to complete a treatment program, and only under those

circumstances can the Parole Board send you to prison. But they can only do it if they certify that you cannot benefit from any substance abuse program.

"Well, here you are. You're standing before the Parole Board because you didn't finish a program. They're supposed to certify you can't benefit from any substance abuse program. They have to do it to send you to prison. There's no other way to send you to prison. It just doesn't work. It doesn't compute.

"Somebody comes because they haven't finished their treatment program. You send them back to treatment. That's the logical thing that you do. You get the treatment finished. It's only somebody who's finished treatment and has shown that that has not affected the way they perform. That person belongs in prison.

"So this is a classic 'Catch-22'. It seems like they are loosening up, they don't. It's consistent with the other provisions of the bill that I've outlined. I thank you for your indulgence, Mr. Speaker."

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

"Thank you, Mr. Speaker. I rise in support. Mr. Speaker, Hawaii is in throes of a public health crisis. This is like no other that we have seen before.

"The ice epidemic is now at least 7 years old. Experts tell us the epidemic is in its second wave, as it spreads throughout our communities.

"Ten years ago, we ignored the fact that ice use was growing. We thought - that's just somebody else's brother, someone's kid, someone else's problem.

"Five years ago, we turned a blind eye to the first stage of the epidemic. We thought, it'll burn itself. Those guys doing ice will just end up in prison. Prison will take care of them. That's not my problem.

"Today, we must act. Ice is my problem. Ice is your problem. Ice is all of our problem.

"We can no longer kid ourselves that the problem will magically disappear. The ice epidemic has grown to be the ten-ton gorilla rampaging throughout our State. Impacting our economy. Destroying our communities. Hurting our families, and killing our children.

"If we don't act now, we will pay more now and into the future. We will pay more for prisons, for law enforcement, child placements, the courts, welfare benefits, and health care. These direct government services are paid by taxpayer dollars. The more we pay for the affects of ice on our government services, the less we have for other things.

"Ice-related costs take away from government spending that could be used for education, transportation, the environment, health and social services for the elderly, economic development and many other needs of our residents. Every citizen bears the cost for property crimes, home security systems, and the rise in insurance costs due to stolen cars or vandalized homes.

"Even our chief economic engine - tourism - is affected by ice. Abusers looking for cash to pay for their addiction prey on our visitors. Disappointed tourists discover that the price of paradise includes replacing stolen property and scrambling to pay for vacation expenses after their cash is taken.

"Every employer bears the increased costs in workers compensation insurance, retraining of employees, drug screening and other recruitment practices to avoid hiring drug users.

"But most importantly, ice addiction cuts across all socioeconomic segments of our society. So, as a society, we lose our ice talented artists and musicians, scholars and laborers, skilled and technical workers, entrepreneurs, mothers and fathers, children, brothers and sister.

"Today Mr. Speaker, we must act. We cannot wait another year. We put before you a bill that addresses three main areas. Harsher criminal laws to protect children and punish drug traffickers, drug treatment as an alternative to prisons, and civil laws that help the community deal with the affects of ice.

"With respect to the criminal laws, we will get tough with ice dealers and manufacturers. Mr. Speaker, the previous speaker spoke about this topic. And yes, Mr. Speaker, we are going harsher after those who manufacture and deal this poison to our communities. For those individuals who have a problem, those who are using the drug, we are directing them toward drug treatment programs. We will get tough on ice dealers and manufacturers. This bill creates a new offense that sets mandatory minimum prison sentences and stiff fines for penalties. Possession of 1/8 of an ounce is a Class A felony: 5-year mandatory minimum; 10 years if a person is injured or dies; 15 years for repeat drug offender. For less than 1/8 of an ounce is a Class B felony: 3-years mandatory minimum; 5 years if a person is injured or dies; 8 years for repeat drug offender.

"This bill will protect children from the effects of ice and drug trafficking. It creates new offenses with enhanced penalties when children are involved. Manufacturing ice with a child present: an additional 2 years. Manufacturing ice with a child being injured or killed: an additional 5 years. Selling ice to a minor: a Class A felony, up to 20 years. Selling or manufacturing ice near schools, public parks: a Class A felony. Using a minor to sell any type of drug, regardless of amount or type: a Class B, up to 10 years, except if near a park or a school. Then it is a Class A felony.

"For drug paraphernalia, Mr. Speaker, this bill gets tough with retail merchants who sell drug paraphernalia ..."

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

Representative Hamakawa continued, stating:

"... that are primarily used for drugs. The previous speaker spoke about the words 'primarily intended'. That's put in the bill because Mr. Speaker, this paperclip could be a 'roach'. If I had it in my pocket, and if the bill was drafted as the previous speaker wants, I could be arrested for drug paraphernalia. But this is not primarily used for drugs. It's used for clipping paper.

"With respect to substance abuse treatment in public schools. We are going to require schools to send a student charged with a drug offense to substance abuse treatment, rather than suspend the student for 92 days. We're going to permit a school to suspend the student, for up to ten days, if the student poses a danger or is violent. We're going to require the school to refer a student to an alternative learning center if treatment is not immediately available.

"For first time nonviolent drug offenders, we're going to permit the courts to exercise discretion to send the drug offender to treatment rather than prison. If the courts find that the offender can benefit from treatment and should not be

incarcerated, in order to protect the public, then that person will be directed to treatment.

"Probation violators for drug offense. This bill will permit the court to exercise discretion to send the probation violators to treatment rather than revoke probation.

"With respect to parole violators for drug offense, Mr. Speaker, this bill will permit the Hawaii Paroling Authority to exercise discretion to send the parole violator to treatment rather than revoke parole.

"With respect to changes in our civil laws, Mr. Speaker, we will give parity for substance abuse treatment. This bill will make health insurance plans offer the same benefits and coverage for substance abuse as it does for any physical disease or illness.

"Mr. Speaker, in yesterday's paper, there was an article written in the Island Voice's section by Mr. Jim Tollefson. He's the President of the Chamber of Commerce. And he basically blamed us, the Legislature, for passing this bill, saying that, 'Once again here's an instance in which lawmakers did not involve the business community or consult us in discussions about measures that will affect us. We were not asked our opinion or given an opportunity to suggest alternatives.'

"Mr. Speaker, you know, Mr. Tollefson is free to say whatever he wants, but at least he should say the truth. He should tell the truth about what's happening. Because when your Task Force, the Joint House and Senate Task Force, went out, we tried to solicit comments on this area from the business community. We went to the Chamber directly to ask them to participate in those hearings and they flatly refused.

"Mr. Speaker, going on in the civil law section, with regard to civil commitments for outpatient treatment, this bill creates a process for families to make sure a loved one gets treatment. We're going to permit the court to order outpatient treatment for 90 days, which may be renewed for an additional 90 days.

"With respect to mandatory substance abuse prevention education for employees, this bill will require employers with more than 15 employees to provide one hour of training per year. In the bill that's coming up, House Bill 2004, we're going to see that we also provide a \$250 tax credit for those employers who comply.

"This bill will also re-enact the Drug Dealer Liability Act to provide a tort remedy for persons damaged by individual drug users to sue the drug dealer.

"And finally Mr. Speaker, the citizen empowerment section. This bill will give residents who have drug houses in their neighborhoods the right to collect attorneys' fees if they bring nuisance abatement laws against the owners of drug houses. This bill protects the residents who bring such lawsuits as a victim, in the same way the crime victims are protected under the Victims' Bill of Rights.

"With respect to community mobility, this bill assigns the Department of Public Safety to coordinate the community drug abatement efforts.

"Mr. Speaker, I was honored to serve as a Co-Chair for the Joint House-Senate Task Force on Ice and Drug Abatement. When the Task Force first approached the issue, we did not know where our information gathering would lead us. We only knew that we had to listen to the community and come up with an action plan. After nearly 80 hours of meetings with over 400 people from all islands and all walks of life, the Task Force issued its report and recommendations.

"This bill, House Bill 2003 and its companion H.B. 2004, reflects the end product of the Task Force's work. It may not be the perfect solution. It is certainly not the complete answer to all the problems caused by ice abuse, but it is a very good start toward ending the ice epidemic. Most importantly Mr. Speaker, it is based on what the Task Force heard from the people. We listened. And now we are delivering on the results. The time to act is now. And I urge my colleagues to support this bill. Thank you."

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

"Thank you, Mr. Speaker. I rise with concerns on this measure. With reservations, yes, Mr. Speaker. I voted up previously when it was in hearing. The bill hasn't changed, it's my understanding of the bill and some of its provisions have changed as I've listened to debate and spoken with colleagues and reread the measure.

"Mr. Speaker, let me just focus on three reservations that I have. The first has to do with section number 11. In House Bill 2003, of course, we are focused on combating ice. In taking that approach, we react as well to Supreme Court decisions interpreting how our statutes interplay. There was a recent Supreme Court opinion which would have, I guess, made preeminent the repeat offender status law when it came in conflict with other statutes.

"What section 11 does, Mr. Speaker, is that it basically overturns that Supreme Court policy call, that Supreme Court opinion, as to how those statutes interact. And we can do that. We can overturn how a Supreme Court indicates how our statutes are to be read. We can do that. We can statutorily overrule how they interpret our statutes. What I disagree with is the policy call. I think perhaps, as I review this, that the Supreme Court got it right, that a repeat offender statutes should trump other provisions. That is what should govern when you have two laws that may both seem to apply to a person who has violated our drug laws.

"The second concern I have, Mr. Speaker, and in a sense I want to applaud and thank the Chair that we are looking at trying to make sure that children are protected from ice. So I don't question the intent or the motives or the sincerity. I just question the ultimate outcome. As I read certain sections here, specifically the ones that relate to methamphetamine trafficking and manufacturer in the presence of a child, I see the intent as, you want to hit them hard. You want to make sure that when they have kids involved, whatever the child might be doing there, whether the child is being used, or being given these drugs, or just happens to be in the presence, you want to hit those people hard.

"But as I see this portion of the bill, I think that we may have a lesser included offense challenge or problem. We may have a sense in which we cannot charge manufactured controlled substance with a child present and some of the other things that you might be able to do. And again I will just leave that as that and ask that if the Senate takes a look at this or if we have a chance to make sure that we address any kind of lesser included offense problem. Because what we want to do is we want to maximize the number of options a prosecutor may have to take a look at a set of facts and say these are the charges. These are the crimes that we can bring. We don't want to inadvertently draft something that would limit and tie our hands. As the language is drafted, I think we might have a lesser included offense problem. Whether that's intentional or unintentional, I can't discern from the text.

"The third and final reservation I think I have with this measure, a way in which I think can be dramatically improved. This point was brought to my attention in debate here. I guess I didn't pick it up when I read the bill. And I need to thank my colleague from Waipahu who has pointed out that while this bill does require an informational meeting when you have a treatment or residential facilities moving into neighborhoods, that is actually a lower standard than what counties presently require. And coming from my neighborhood, we would rather have actually more input, more say, when it comes to neighborhoods having these kinds of facilities in the neighborhoods. So I think that we need to take a look at that. I think simply having an informational meeting may be too low of a requirement because then the group can just come and say this is what we want to do to your neighborhood, take it or leave it, you've been informed under the statute. We might want to have a way in which the community can have more of a say effectively responding to what has been provided to them.

"So for those three reasons, Mr. Speaker, I have reservations concerning this measure."

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

"Thank you, Mr. Speaker. In opposition. I can't support this bill as written. I do support getting tough on drug offenders but I can't support getting tough on employers. This bill in section 15 requires employers, mandates employers, to provide drug education for its employees on an annual basis or face civil fines. So I can't support this bill in its present form. Thank you."

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

"Mr. Speaker, I rise in strong support of this bill. I believe it is a bill that has gotten much improved after the hearing that the Judiciary Committee held a couple weeks ago on a Saturday morning that went into the late afternoon.

"One, it's very tough on crime now, Mr. Chairman. You've heard the Chair of Judiciary emphasize where it is tough. I just wanted to reemphasize that. One, it increases the mandatory minimum sentences for ice. It makes distribution to a minor or pregnant person a Class A felony. It enhances prison sentences when the manufacturer of ice is done in the presence of a minor. It makes a new offense for promoting ice through the use of a minor. These are all strong, tough measures that we can be proud of in terms of cracking down on ice dealers in our community, Mr. Chairman. And it has many, many other provisions that deal with cracking down on crime in the area of ice dealing.

"Mr. Chairman, it's also very strong on ice treatment. We can have a crackdown on crime, but the other end of it is treatment. And without both of them going hand in hand, we will never solve the ice problem in our community.

"And perhaps, Mr. Speaker, what I believe is the most innovative part of this bill now is the citizen empowerment section. This is something that wasn't before the Committee when we had the hearing. But after hearing the cries of several women at the hearing about what they could do, or in how we could help them to take back their community from ice dealers, the Committee on Judiciary and their staff came up with a provision that now allows citizens in the community to bring citizen's abatement suits, and to recover attorney's fees when they do so. I think this is a very, very strong provision. And along with that, it also has many provisions that enhance working with the police and other crime units to deal with ice interdiction.

"Finally, you've heard some discussion about some of the provisions that may place a burden on business. And while they were well intended in the initial bill, most of them been taken out or amended so there's just a minor impact. For example, the original bill had 3 months of insurance premiums for substance abuse treatment after you terminate an employee for whatever reason. That provision has now been taken out of the bill. And that is a good thing. And it improves the bill.

"It also reduces to one hour from three hours, the substance abuse prevention training. I would like to point out to the Members that we already have a law in place that requires training for sexual harassment in the work place. Mandatory on all businesses. I think that is a good thing. And most businesses are living with it and it's bringing about the intended effect. We all share in the problem of substance abuse in the workplace. It's there, people who drink, people who have other types of drug addictions. And it's trying to address that issue.

"As far as the fines, there are no long criminal fine. There is a small fine for those who don't comply, \$500. There's also the tax credit that the Chairman of Judiciary mentioned.

"So I think this is good bill. We heard a lot of complaints about technical problems. Every bill has those. But now is the time to take action. And I think the bill is a strong step in that direction. It's only gotten better. And I urge our colleagues to vote in favor of the bill. Thank you very much, Mr. Speaker."

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

"Thank you, Speaker. In very strong support. Mr. Speaker, when I look back just a year ago, we weren't really doing anything about this huge problem that we have in our State. And one of the things that I like about this bill is that we really are attacking the demand side. By attacking the demand side, we will have an impact on the supply side. If we just go after the supply side, all we're going to do is raise the price of it and increase property crime. I think that the conditions that we've got in here to deal with the supply side are proper, and are going to be effective. I'm very, very pleased with the strong approach on the demand side.

"Mr. Speaker, I had an opportunity a few weeks ago to speak to some senior managers of a fairly large company in Hawaii, and I spoke to about 45 people. And talked about ice and afterwards, 4 or 5 of them came up to me and expressed thanks for bringing it up. They had been impacted through friends, neighbors, family. And as a result of that, that company is going to proceed with mandatory drug training without this law. And as a former hotel manager with some 500 employees, I know what the impact of drugs were then. And that was even before ice. And I always did my best to save those people rather than just get rid of them. So I'm in strong support of the mandatory testing. One hour a year isn't much, Speaker. Thank you."

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

"Thank you, Mr. Speaker. I'm rising in opposition to this bill. It's kind of difficult for me to vote no on this. I was on the Task Force. I went to many, many field trips and heard all kinds of experts. But what we heard over and over again, as well as the need for more treatment, were more tools for law enforcement to do their job. And from what I see in this bill, we haven't done that. We have not listened to the prosecutors and the AG. We've simply ignored them. I've heard lots of talk here this afternoon about interdiction or taking care of the proliferation of drugs, but we haven't really handled that at all.

"Act 161 was passed I think about 2 years ago. I was one of quite a few that voted no on that because I felt like we were going soft on drugs. We were making it almost impossible to call a dealer, a dealer. I mean, everybody who had ice on them or smoked was a sick person, was a user. We should feel sorry for them. Give them a break. The people that had large amounts of ice were definitely dealing. Dealing to our neighbor's kids. Dealing to our children. Whether they were dealing to earn money to support their own habit, I'm not sure, but the impact they have on the people they sell to is dramatic. And so it's very disappointing to me to see that we simply are ignoring what law enforcement folks repeated over and over in many different forums that the ice Task Force people participated in.

"I want to read the summary of the testimony from the City and County of Honolulu, Police Department, a Major Karen Kaniho of the Narcotics Vice Division who sent in this testimony. She says that, 'Section 10 leaves intact the current law that prohibits first time parole revocation for drug possession or use. We strongly believe the Paroling Board should be able to revoke violators if they determine it is in the best interest of the community and the offender.' And as the Minority Leader pointed out, the language in this bill makes it just about impossible for them to revoke this. It's always give them another chance.

"Another law enforcement member, the Chief of Police in Maui, Thomas M. Phillips sent in testimony. He points out that Sections 5 and 6 of the bill recommend the removal of mandatory minimum terms for those convicted of felony possession of large amounts of methamphetamine. The sections bar the sentencing court any discretion in mandating a minimum term of imprisonment. For that reason, he opposed the bill.

"He also went on to say that Section 11 contradicts the Hawaii Supreme Court mandatory sentencing provision of the Hawaii Penal Code that requires drug users with multiple felony convictions be sent to jail as referenced in State of Hawaii vs. Smith, their slip opinion dated December 26, 2003. It is not justified to have a drug user with multiple felony convictions not serve jail time, while other criminals with multiple prior offenses be given a mandatory prison sentence.

"He also objected to Section 12, which bars first time probation revocation for drug possession. I've already covered that.

"In many instances, this bill is a 'get out of jail free' ticket. If you are doing any kind of crime, if you have some ice on you, you will be let off and sent to treatment. Thank you, Mr. Speaker."

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

"Mr. Speaker, I rise in strong support. Thank you very much. First off, I'd really like to commend the work of the Judiciary Chair and the Task Force. I think they really took a comprehensive look at this significant problem and tried to attack it on multiple grounds. And I'd like to address a few of those points.

"First of all, I think the overall theme when you read this bill, House Bill 2003, HD 1, it really is a matter of everybody has to work together if we're going to try and solve this significant problem. We really took a look at all of the different factors that have a part in, and how we're going to try and get rid of this problem. And I think the bill tries to address most of those parts. It actually calls upon the courts, the judges, the Paroling

Authority, the probationary officers, the schools, employers, insurers, family members, citizens, and community groups, all to pull together in this multi-sectional part bill.

"And if we're going to try and tackle this problem, first and foremost, I'd like to address the criticism that came about with some of the Section 11 and the discretion that has been left to the courts, the judges, the Paroling Authority, and the probationary officers. Really that's what it's all about. It's about discretion. I think there is an ideological difference here when you take a look at the criticism, because part of the problem was that in 1996 to 2002, there were mandatory minimums. There was this idea that any amount of drugs that you held on your person, you should be sentenced to a minimum amount of prison time. However, what we've seen is that that has not worked. That has not really solved our problem. Instead that's only exasperated the problem by putting more people, and more people in these prisons, whereby they don't get any treatment. They get out of prison and fall back into the same cycle of addiction again, and again, and again.

"When we take a look at what other states are doing, we see that, in 1996, 19 out of 24 drug policy reform initiatives around this country passed. That's a significant amount of initiatives done by citizens in order to try and address this problem. Furthermore, we've seen that 25 states have taken a look at mandatory minimums and indeed have reduced or eliminated it. So we see that over half of our Nation since that time has taken a look at mandatory minimums and realized that's not really the way to go.

"In 2002, Act 161 was passed. And basically that had mandatory treatment. I think I give a lot credence to the Judiciary Chair for realizing that what we really need to do is take a look at a balance, in between the ideas of mandatory minimums and in between the ideas of mandatory treatment. And the way to balance that is to give discretion to the judges and the courts. Primarily, this is done on page 32, when the judge specifically has to take a look at the offenders' prior history and determine whether indeed treatment and probation will be in their best interest. It's specifically up to the judge to take a look at these subsections and determine whether the person is nonviolent, looking at their whole past criminal history.

"Also more importantly, the judge has to take a look at whether this person has been assessed by a certified substance abuse counselor to be found in the need of substance abuse because they suffer from a disease under the Diagnostic and Statistical Manual of Addiction Severity Index. That Diagnostic and Statistical Manual basically says that this is an identified disease by medical, psychological, and psychiatric science. This person suffers from a disease, and therefore the only way that they will be cured of that disease possibly, is through treatment. So although people have criticized Section 11, and the fact that we've taken a look at what the Supreme Court has done and basically undercut that. Instead what I see is us taking a look at how are we going to try and break this cycle. We have to trust our judges. We have to trust the Judiciary. That they will be the ones that will take a look at the individual circumstances of each person and determine what is in their best interests guided by these principles that is set forth in HB 2003.

"Furthermore, what I'd like to talk about is when it comes to the idea of drug paraphernalia and the criticism. Basically, the reason why 'primarily intended' was put in was basically to track the federal language. And that was the primary purpose. And that was stated by the Chair of Judiciary. I think that it's good reason why we need to have that modifier in there.

"Finally, I'd like to address some of the other provisions of the bill. First and foremost, it has to do with criticism over the ..."

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

Representative B. Oshiro continued, stating:

"Thank you. I will be wrapping up very shortly.

"First and foremost is about the criticism over clean and sober homes. Basically there is a distinction. This is not a treatment facility. This is for people that have gone past treatment and are clean and sober, and basically in need of some residential housing, otherwise they most likely will end up on the streets or on our beaches. It is specifically for only those homes that are less than 10 people. So it is not going to be a huge, monstrous facility housing hundreds of individuals. Right now in our laws, there's nothing to inform the community when these clean and sober homes move in. Basically because it's less than 10 individuals. There is no requirement that they talk to the community and inform them what they're trying to do. And that's why the provision was put in the bill.

"Finally, there has been criticism as to law enforcement and whether what we did, did not specifically address their problems. The HD 1 actually took a look at the criticism that were raised by the law enforcement as to Section 11, and Section 12 and Section 13. And as to the lack of discretion that had been in the original draft of HB 2003. And that's why in HD 1, we did put the discretion back in, giving them the ability to see what is in the best interest of the person before them. It's for those reasons that I stand in strong support.

"And finally, I did want to address one idea, citizen empowerment. When we heard HB 2003, there really was nothing about citizen empowerment. But what we've seen in the short time that we have had our nuisance abatement unit, is really communities taking it on their own behalf to try and clean up the streets, and clean up their neighborhoods. And really what they need is some protection. And that's why we've given them the same rights as under the Victims' Bill of Rights Act. We've also given them additional tools so that they can have attorney's fees if they themselves try to prosecute this action and try to kick out any kind of drug houses in their neighborhoods, and they are then protected by the Victims' Bill of Rights. So it's for those reasons that I feel all of us in our society need to bear our burden.

"Unfortunately, some people may feel that it's too much for them. Unfortunately, some people may criticize that they weren't given a part in figuring out what kind of responsibilities they want. But that's our job. Our job is to try and take a look at how we're going to balance all of these needs and come up with a solution. And I think this bill does that. Thank you very much."

At this time, the Chair stated:

"Members, with your indulgence, we have had 40 minutes of debate. The Chair will allow one Member from the Majority and one Member from the Minority to speak. And then for those of you who have with reservations, or are in opposition or in support, if you would like to submit your written comments, that would be very helpful because we do have some timetables in regards to public hearings this afternoon.

"So I did see Representative Stonebraker, so I will recognize Representative Stonebraker. Representative Saiki, for what purpose do you rise?"

Representative Saiki responded, stating:

"I want to be acknowledged for a floor speech."

The Chair responded, stating:

"Okay. Representative Stonebraker and then Representative Saiki."

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

"Thank you, Mr. Speaker. I rise in opposition to this. I appreciate the Vice Chair of the Judiciary mentioning that there are some ideological differences in approaching this bill. And I appreciate the fact that the Chairman of the Judiciary mentioned the broad approach that we desire to take as a legislative body. And yet the opposition that I have comes based on the fact that some of those ideological approaches veer off sharply from what I can support.

"A lot of things have been mentioned regarding Section 3, the mandatory minimums. The problem that I have there is that you may have sharper teeth for law enforcement, but you do not give them faster legs to catch those bad guys. There's still such a strict standard for our search and seizure laws. This bill has no mention, or it does not address in any shape or form, the constitutional provisions that have been proposed. I know there will be a hearing on that. I believe it is on Tuesday regarding the 'walk and talk' and 'knock and talk'. But this bill has no provisions regarding that.

"Mr. Speaker, I remember being so fascinated with the animal kingdom when I was in school. One of those animals was the saber-toothed tiger. It fascinated me because of its large 6 to 8 inch long fangs that they found in the archaeological record. Incredibly razor-sharp teeth. The problem was that this large cat was not fast enough to catch its prey. It's now extinct.

"Another animal that fascinates me is the cheetah which runs incredibly fast. I believe it's around 70 miles an hour. It doesn't have particularly sharp teeth but it can catch its prey.

"This bill is like a saber-tooth tiger. It gives mandatory minimums. It appears to be very effective, but it does nothing for the strict standard of search and seizure. It does nothing to enable the law enforcement to get the bad guys, to get the drug dealers, to get the drug manufacturers.

"In Section 4, it alters the definition of drug paraphernalia but as it was mentioned, it does not change the criminal intent requirement. So I don't believe it's going to do a lot.

"Some of these areas Mr. Speaker, I just have reservations about. But overall, the bill I'm in opposition to.

"The parity mentioned in Sections 18, 19 and 20 will increase insurance premiums. The proponents will say, 'Well it won't, too much.' But you know, as we go incrementally, insurance premiums continue to rise higher and higher with measures such as this.

"Section 11, we mentioned, but the bottom line is repeat offenders will be paroled. I can't support that.

"Section 23, of course we have reservations because this obviates the need for conditional use permits, variances, or any exceptions to open a drug rehabilitation home. Only a notification is required to let your neighbors know that you are going to have 10 or less recovering drug addicts living next door.

"Section 15, of course mandate employers to provide a one hour program with a \$500 fine. I think of my father in this case. My father is a senior pastor at Calvary Chapel of Honolulu. And this business or organization would fall under this requirement. Here you have members of the church staff being required to go through this education. You know these businesses are not the problem here. They are not the ones that we should be getting tough on.

"Finally Mr. Speaker, I would ask why would we move in this direction regarding the final sections of this bill? Section 25, and Sections 27, 28, 29 and 30, or as some have called the citizen empowerment. I would call it the 'citizen endangering' provision of this bill. What am I talking about? Why would we move in a direction toward endangering Hawaii citizens? Well, what I'm talking about is the fact that this bill in its current form, moves health workers and regular citizens in harm's way, to the front lines of this battle on ice. Perhaps it's an infatuation with this simplistic idea that the crystal meth problem is purely a public health crisis. I think this idea that it is purely a public health crisis, now I agree that it is a public health issue, but it is not purely a public health issue. But I think the idea, this infatuation with this over-simplistic idea lures the proponents of this measure to completely overlook any criminal element of drug dealers.

"For example, in Section 25, this is the Department of Health provision. Basically it puts the Department of Health and its workers in the front end of enforcement by treating meth labs as a nuisance. It includes meth conversion manufacturers or ice labs in the definition of nuisance, alongside noxious odors, or spills ..."

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

Representative Stonebraker continued, stating:

"I'm delighted. I thank the Representative for yielding his time.

"... or excessive mosquitoes. So is the position of this House to include crystal meth labs in the same definition of excessive mosquitoes to be cleaned up by the Department of Health workers? Imagine, you smell a noxious odor. You know the neighbor across the street or across the way is manufacturing drugs. You call the police department and they say, 'Well, we're doing what we can but we don't really have the power. The Legislature hasn't passed the bills that we need to have the power. You can call the Department of Health and they will knock on their door ask if they can clean up that drug lab.' Well the Department of Health would come, they would knock on the door. There would be no guidelines according to this measure regarding the police or law enforcement to protect these workers. But they would come to the door and ask if they could clean it up.

"Now let's not forget that, an ice lab is not only a polluted environment which needs to be cleaned up but it is a dangerous environment. People may die. People may put in harm's way to such a degree that they are injured by these drug dealers. Just because we frame this argument as a public health issue, it does not negate the criminal element from the debate. Just because the rhetoric has changed, it doesn't negate the fact that criminals are involved.

"Secondly, the Sections 27, 28, 29, and 30. I think it arises from the naïve assumption that the ice problem is purely again a public health issue. Citizens will be given the option to deal with meth houses in this way. Sue them. Bring a suit against the drug dealer on your block. If there's a drug house in my

neighborhood and I call the police, the police will again say, 'Well, we haven't been given the tools. We've got sharp teeth but slow legs. We can really crack down on them but we can't catch them', Mr. Speaker. The police would say, 'Well, you can hire an attorney and file a civil suit against them.' File a lawsuit to stop drug dealers? Only a lawyer could come up with something like this. But imagine a 'kingpin' or a drug dealer being served with papers by the sheriff. Do you think he's going to file a brief in opposition? Or do you think he's going to look at the plaintiff line, find out who that is on the street and firebomb their house? I think the latter is more logical.

"It's a fantasy to push Department of Health workers, moms and dads, residents on the local block into the frontline to crack down on drug lords and think that people won't get hurt. It's a fantasy and I can't support endangering Hawaii citizens with this measure."

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

"I rise in strong support of this measure. I would like to first of all incorporate the words of the Chair of the Judiciary Committee as my own. And I have a few brief comments to make as well.

"When we began our Legislative Session about a month ago Mr. Speaker, the Members of your Majority Caucus put forth a joint package together with their counterparts in the Senate. And one of the components of that package was a pledge to address the ice crisis in the State of Hawaii. And I'm very pleased and I'm very proud that we are acting upon this promise today.

"In many respects, the work of the Legislative Task Force is a culmination of various types of interests and awareness that has occurred in our State over the past 10 years. It was only in 1992 when experts in community began to note the use of crystal meth at various levels. And it was only in 1997 when our State Government reported to the Federal Government that crystal meth was becoming a crisis. As you know, in the year 2003, various communities throughout the State began to organize on their own to create public awareness programs to fight ice in their communities. And it was in some respects their efforts that led to the creation of this Task Force.

"I would also like to note Mr. Speaker, that some Members of our own Body had the foresight and had the vision to attempt to address this issue a few years ago. Starting in 1999 when the Chair of our House Health Committee joined together with the Chair of the Senate Health Committee to hold a town hall meeting to discuss this issue in public. Again the Chair of the House Health Committee joined with the Senate in 2003 to convene another public hearing to discuss the ice crisis. It was their efforts combined with the community and combined with the counties that led to the Senate and House creating this joint, bipartisan Task Force over this past summer. The objective of this Task Force was to go into the community and to seek input from real people, from real experts, from youth, from advocates, from teachers, and to see what kind of recommendations and concerns they had concerning this ice crisis.

"I would like to just note very briefly the extensive nature of the work of our Joint Task Force. I think it was very commendable that they spent a considerable amount of time on this task. The Committee held 7 informational briefings on Oahu consisting of 29 hours of testimony from 70 speakers. The Committee held 4 public hearings on Neighbor Islands consisting of 18 hours of testimony from 103 speakers."

Representative Halford rose to a point of order, stating:

"Mr. Speaker, point of order. Could we discuss the contents of the bill please?"

The Chair responded, stating:

"I believe the speaker is addressing the contents of the bill and how it has been formulated and moved in its evolution. So please proceed, Representative Saiki."

Representative Saiki continued, stating:

"Thank you, Mr. Speaker.

"The Joint Task Force also held 3 public hearings on Oahu which comprised of 8 hours of testimony from over 25 speakers. In addition to these briefings and hearings, the Committee made 14 site visits to community agencies or organizations on 5 islands. And that entailed 24 hours of discussion with more than 170 people who are in recovery or who staff recovery efforts in these communities. The overall conclusion of the Task Force after conducting all of this work is as follows:

The solution of the ice epidemic is to prevent the future generation from substance abuse and care for the present generation of ice abusers.

"Mr. Speaker, the work of this Task Force and its recommendations is a classic example of the role of our State government in mobilizing to bring together resources and people to fight a public health crisis. We will take the lead along with the federal government, with the counties, and with the communities to stop ice use.

"I think that it's important to note that there are some criminal related issues contained in this measure. And I'd like to note that the Task Force is very innovative in terms of its recommendations with restructuring our Penal Code to address this crisis. Taken together, the Task Force has proposed the creation of 11 new offenses which cover ice trafficking, manufacturing and possession. Collectively these offenses account for 103 years of prison time and fines of between \$16 million to \$45 million. This is very significant, and is a dramatic statement of the Legislature's commitment to stop ice abuse in our State.

"I would like to close by reading a very short quote from testimony that was submitted by the Office of Mayor Harry Kim in one of our public hearings. I thought that what the Mayor's office said is very apt to our discussion today. And this is the statement:

Although the ice issue raises questions and concerns about crime, drugs, and violence in our communities, it also raises questions about us as a community. What are our priorities? What should we do when ice threatens our way of life? What should we do when we face the possibility of losing a generation of our youth to ice? What do we do when our very sense of family, of *ohana* is threatened by ice? We stand up, take responsibility, are accountable and take positive steps forward. We focus on our children and our families. We insure that we're balanced in our search for solutions to this terrible problem and we take action.

"Mr. Speaker, I'm very proud of the work of our Task Force. I'm very proud of this legislation because it shows that the Legislature has stood up along with members of our community. We have taken responsibility. We will be held accountable. We will take positive steps forward. And we will take action to beat this crisis. Thank you."

The Chair then stated:

"Thank you very much. At this time the Chair will entertain any written comments for, opposed, or with reservations to be inserted in the Journal."

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:

"I have several reservations on this bill that purportedly wages "war on ice". It does, but it fights with powder puffs. It sounds like a "get tough" bill with changes in sentencing, but other speakers have pointed out the futility of the proposed sentencing and parole changes.

"If this were truly a get tough bill, it would incorporate the suggestions put forward by the Law Enforcement Coalition composed of the U.S. Attorney, Attorney General, county police chiefs and prosecutors. Where is the "walk and talk" provision? Where is the proposal for easier state procedures to acquire wiretaps?

"Yes, we should offer drug treatment. Yes, we should treat the symptoms. But while we attempt to assuage the demand side, we don't help control the supply side. Why the reluctance to help law enforcement? Why the anti-police sentiment? Why the pro-user mentality? This measure leans heavily on helping the drug user. This is the underlying philosophy of many of the Democrat bills now moving through the Legislature.

"The sentencing and paroling section is flawed. The paraphernalia section is weakened by the addition of the word "primarily", and, ironically, could make convictions more difficult. The provision for locating rehabilitation houses in residential districts is spot zoning performed by the counties. The citizen empowerment provision provides little help to beleaguered and victimized neighbors. The clean up of ice labs by the Department of Health is a raid on the Oil Spill fund. And the "sue a drug lord" provision is a bad joke. One risks retaliation, for sure.

"We are now engaged in a War on Ice. But we're shooting blanks to fight smugglers, drug lords, pushers and users. This bill needs beefing up before I vote for it free and clear."

Representative Sonson 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 Sonson's written remarks are as follows:

"I have reservations about a couple of provisions of the bill. Section 11 of the bill amends Hawaii Revised Statutes section 706-622.5(2) to allow repeat offenders who would otherwise be subject to sentencing as a repeat offender under section 706-606.5, to be sentenced to probation instead of incarceration at the discretion of the court.

"These repeat offenders would be sentenced to probation to complete a substance abuse treatment program.

"Part VII, Section 24 of the bill amends Chapter 46 of the Hawaii Revised Statutes by adding a new section permitting drug rehabilitation homes to be established in residential neighborhoods including those zoned for single-family dwellings.

"Although the drug rehabilitation home must be operated by a community-based nonprofit agency approved by the Department of Health, there is no other conditional use permit or variance required for a residence to be used as a drug rehabilitation home.

"I am very concerned that these drug rehabilitation homes, where repeat offenders will be living, are being set up in residential neighborhoods without any kind of regulation or licensing requirement.

"These drug rehabilitation homes, which include "clean and sober homes" and "transitional living homes," must be regulated through a licensing program in order to protect the persons in recovery and the public living in the neighborhoods where these homes are established."

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

Representative Hale 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 Hale's written remarks are as follows:

"Although I recognize and congratulate the efforts of the Joint House-Senate Task Force on Drug Abatement (Task Force) which spent 80 hours listening to the public in their many community meetings throughout the State, I voted "Aye, with reservations" because there are parts of this bill that I do not agree with.

"Before I went on a recent trip to the Micronesian country of Palau, I was approached by a constituent in Pahoia who had learned of my journey and who informed me that Palau had no drug problem because their laws were so strict and asked me to look into that assertion. While attending the Association of Pacific Island Legislatures' annual Board meeting, I approached the Speaker of the Palau legislature and asked that question. He assured me that it was true and had a copy of their legislation given to me. In their law they sentence anyone who is found "to possess one ounce or more containing methamphetamine, heroin, morphine, or cocaine or any of their respective salts, isomers, and salts of isomers... to 25 years in prison and not eligible for parole". They are very serious about their enforcement and an officer in the Department of Justice told me that they used to have a drug problem but now the drug dealers avoid Palau.

"I introduced HB 2613 with these penalties, but this bill was never heard. Although I realize that it would probably not pass, I did feel that it should at least be heard in committee.

"Therefore I had to vote "with reservations". I feel that a penalty of 15 years is not adequate, particularly if "serious bodily injury or death result from the use of the manufactured substance". Imposing a \$4,000,000 or \$10,000,000 fine is no substitute for the loss of a life."

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

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

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

Representative Ontai's written remarks are as follows:

"In opposition. This bill emphasizes treatment and treatment process almost exclusively. To develop an effective system in the fight against drugs, clear law enforcement and prevention tools are needed. This bill, unfortunately, only emphasizes the treatment aspects of this fight and does almost nothing to improve the ability of our law enforcement officials to help discourage dealers or alleviate the creation of substance abusers.

"We need a balanced approach, one that provides care and treatment coupled with one that provides severe penalties for involvement in the drug trade or for failure to accept treatment. Therefore, this bill comes across as rather weak and not a substantial step forward."

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

Representative Magaoay written remarks are as follows:

"Mr. Speaker, Members of the House, I speak on behalf of my constituents who demand action against crystal methamphetamine, also known on the streets as "ice." More than 400 concerned citizens of Hawaii spoke out in force against this drug. Professionals and laypersons alike gave of their time, knowledge and experiences to describe the impact this dreaded drug has on our society. These people spoke out at public hearings and site visits on different islands in 2003. The conclusions identify immediate and long-term devastation by ice. As a member of the Joint House-Senate Task Force on Ice and Drug Abatement I strongly support this measure as the basis for forging an additional attack against ice.

"The bill in its present form crafts a comprehensive approach towards protecting our future generations and healing our present sick. It calls to force the Departments of Public Safety, Commerce and Consumer Affairs – Insurance Division, Labor and Industrial Relations, Education, Health, the Judiciary, the Office of the Attorney General and every county in the State to wage battle against the ravages of ice. It is an important first blueprint for legislators and the public alike to identify and think through the logistical implications of the powers, duties, and obligations vested in written statutes.

"We will all question the cost in dollars. We will question the source of the monies. We will question how much we will need and for how long. But we have determined this drug shall not further disintegrate the social fabric of Hawaii. We will not accept the withering away of the health and stability of our youth, work force and economy. As to costs, I would encourage my able colleagues to think outside the box. Let us debate and listen to each other further. Discover creative combinations of how existing resources and expertise can "kill two birds, even three, with one stone." Let our legislative crafting avoid duplicative fiscal demands on participating departments, agencies, employers, and individuals. Let us win this war against drugs."

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

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

Representative Finnegan's written remarks are as follows:

"Mr. Speaker, I rise in opposition to S.C.R. 495-04, H.B. 2003, H.D. 1. I know my colleagues have touched on different aspects of this bill that they oppose. I would like to focus on Part II, which amends the current law dealing with treatment for first-time nonviolent drug offenders. The Majority is seeking to amend the law to allow the courts to sentence first time drug offenders to probation and treatment in spite of any prior convictions the offender might have. It is doing so to overturn the Supreme Court's decision in *State of Hawaii v. Smith*. This seems to be a mistake to me. While I understand the Majority's commitment to treatment for drug offenders, I believe the benefits of Act 161 are best targeted at individuals with no prior criminal history whose first arrest is for drug possession. It should not be used as a 'get out of jail free' card by career criminals. We have read in the newspapers the anecdotal evidence that criminals are now carrying drugs on them all the time, so that they can take advantage of Act 161 to avoid the penalties of the repeat offender sentencing laws. The Majority, in its rush to overturn the Supreme Court's decision, has decided to instead affirm the decision of Hawaii's career criminals. This is a mistake, and I worry that we will have to suffer from increased crime and more aggressive criminals before it is corrected.

"Thank you, Mr. Speaker."

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

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

Representative Fox's written remarks are as follows:

"Mr. Speaker. HB 2003 is a classic 'fake reform' bill. Contrary to what the Judiciary Chair and other Majority members allege, the bill does little to strengthen the crime-fighting capabilities of our law enforcement coalition, while doing much to weaken the soft 'ice' fighting capabilities we currently have in place. Section 3, contrary to the Representative from Downtown's comments, does nothing to stop possession of 'ice'--even in obscene quantities. A person can be charged and sent to prison under this section only for attempting to distribute drugs--a charge so difficult to prove that the Model Penal Code instead sentences based solely upon possession of amounts beyond that which a single person can use. Section 4 fails to remove language from the current law that HPD said had to be removed--language that permits stores to sell drug paraphernalia unless law enforcement can prove the seller intended to promote dangerous drug use. Sections 5-7 eliminate the current mandatory jail time for repeat possessors of 'ice.' Sections 10 and 12 purport to return or send to prison certain persons on parole or probation who fail to complete treatment programs, but actually insert a 'Catch 22' that blocks authorities from using prison--authorities first have to prove the very people who failed to complete cannot respond to any treatment program at all. And the worst section, Section 11, will permit anybody who carries 'ice' on their person to escape prison, even if they commit a crime that mandates prison. Mr. Speaker, no thanks for a law that makes Hawaii less safe. Thank you."

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

Representative Mindo's written remarks are as follows:

"Mr. Speaker, I rise in support of House Bill 2003, and would like to add the following remarks to the House Journal.

"As a member of the Joint Task Force on Substance Abuse, I saw firsthand the devastating effects that drugs can have on an individual and his/her family members.

"Indeed, I strongly support House Bill 2003, specifically because it adds and amends various existing laws relating to criminal conduct for drug related offenses, amends laws relating to first time nonviolent drug offenders, and substantially improves the existing programs for substance abuse treatment. Additionally, I support HB 2003 because this bill seeks to include coordination of drug abatement efforts between public, private and community organizations under the leadership of the Department of Public Safety.

"Finally, I support HB 2003 because this bill seeks to provide additional opportunities to facilitate the development of drug rehabilitation homes for recovering addicts, and provides additional avenues for citizens to recover attorneys' fees and to be protected in the same way as victims of crimes are protected.

Thank you very much Mr. Speaker, for providing me with this valuable opportunity to speak on behalf of HB 2003."

The motion was put to vote by the Chair and carried, and H.B. No. 2003, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ILLEGAL USE OF CONTROLLED SUBSTANCES," passed Third Reading by a vote of 37 ayes to 10 noes, with Representatives Blundell, Ching, Finnegan, Fox, Halford, Jernigan, Meyer, Moses, Ontai and Stonebraker voting no, and with Representatives Bukoski, Kaho'ohalahala, M. Oshiro and Takamine being excused.

At 1:54 o'clock p.m., the Chair noted that H.B. No. 2003, HD 1, passed Third Reading.

STANDING COMMITTEE REPORTS

Representatives Hiraki and Hamakawa, for the Committee on Consumer Protection and Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 524-04) recommending that H.B. No. 1727, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, 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 INSURANCE FRAUD," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Bukoski, Kaho'ohalahala, M. Oshiro and Takamine being excused.

Representatives Hiraki and Hamakawa, for the Committee on Consumer Protection and Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 525-04) recommending that H.B. No. 1818, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1818, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE LANDLORD TENANT CODE," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Bukoski, Kaho'ohalahala, M. Oshiro and Takamine being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 526-04) recommending that H.B. No. 1773, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1773, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GARNISHMENT," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Bukoski, Kaho'ohalahala, M. Oshiro and Takamine being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 527-04) recommending that H.B. No. 2196, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2196, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL TRESPASS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Bukoski, Kaho'ohalahala, M. Oshiro and Takamine being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 528-04) recommending that H.B. No. 87, as amended in HD 1, be recommitted to the Committee on Water, Land Use and Hawaiian Affairs.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 87, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND USE," was recommitted to the Committee on Water, Land Use and Hawaiian Affairs with Representatives Bukoski, Kaho'ohalahala, M. Oshiro and Takamine being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 529-04) recommending that H.B. No. 2013, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2013, pass Third Reading, seconded by Representative Lee.

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

Representative Marumoto's written remarks are as follows:

"Mr. Speaker, I rise to speak in support of HB 2013.

"Polybrominated diphenyl ethers or PBDEs are useful as flame retardants but are found in increasingly alarming amounts in the breast milk of American mothers.

"Tests on animals have shown PBDEs can cause cognitive and behavior changes during development and scientists fear they could impair the development of attention, learning, memory and behavior in children. These same tests on animals have also showed high cancer rates with exposure to PBDEs.

"In two studies, all American women tested were contaminated, with levels the highest in the world—10 to 20

times higher than the women tested in Europe. The levels in Americans ranged from 9.5 to 1078 parts per billion.

"Brominated fire retardants are a group of closely related chemicals that are used in thousand of products we use every day—furniture, computers, TV sets, cushions, automobiles and carpet padding. PBDEs are believed to enter the human body through exposure to contaminated food, house dust and air.

"One manufacturer, acknowledging problems, stated that the use of PBDEs would be phased out by 2007.

"Fire retardants in breast milk are just one of the chemicals a mother passes on, not just to nursing infants but to unborn fetuses, which are most vulnerable to neuro-toxic chemicals

"I believe that PBDEs should be restricted until we know more about their effects on women and children."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2013, entitled: "A BILL FOR AN ACT RELATING TO POLYBROMINATED DIPHENYL ETHERS," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Kaho'ohalahala, M. Oshiro and Takamine being excused.

At 1:56 o'clock p.m., the Chair noted that H.B. No. 2013, passed Third Reading.

Representative Ito, for the Committee on Public Safety and Military Affairs presented two reports:

(Stand. Com. Rep. No. 530-04), recommending that H.R. No. 20, be referred to the Committee on Finance; and

(Stand. Com. Rep. No. 531-04), recommending that H.C.R. No. 37, be referred to the Committee on Finance.

Representative Saiki moved that the reports of the Committee be adopted, and that H.R. No. 20, and H.C.R. No. 37, be referred to the Committee on Finance, seconded by Representative Lee.

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

"Very briefly, Mr. Speaker. I commend my colleagues for supporting these measures to date. I hope we expeditiously get it to the Finance Committee. I remind my colleagues that the purpose is to ask the Navy to assign the Hoga here permanently to Hawaii. I understand that the decision may be made in the next two weeks. So our action is required.

"For those of you who don't know, this was the tugboat that was so instrumental in saving the sailors and marines during the attack on Pearl Harbor and for pushing the battleships out of the harbor channel and fighting the fires on the Arizona and other battleships during that attack. Thank you."

The motion was put to vote by the Chair and carried, and the reports of the Committee were adopted and H.R. No. 20, entitled: "HOUSE RESOLUTION REQUESTING THAT THE UNITED STATES NAVY TRANSFER THE U.S.S. HOGA TO THE HOGA PRESERVATION SOCIETY FOR PLACEMENT IN HAWAII AS A PERMANENT MEMORIAL TO THE SECOND WORLD WAR AND TO THE BRAVE MEN AND WOMEN WHO FOUGHT AND DIED TO PRESERVE OUR FREEDOM," was referred to the Committee on Finance with Representatives Bukoski, Kaho'ohalahala, M. Oshiro and Takamine being excused; and

H.C.R. No. 37, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THAT THE UNITED STATES NAVY TRANSFER THE U.S.S. HOGA TO THE HOGA PRESERVATION SOCIETY FOR PLACEMENT IN HAWAII AS A PERMANENT MEMORIAL TO THE SECOND WORLD WAR AND TO THE BRAVE MEN AND WOMEN WHO FOUGHT AND DIED TO PRESERVE OUR FREEDOM," was referred to the Committee on Finance with Representatives Bukoski, Kaho'ohalahala, M. Oshiro and Takamine being excused.

THIRD READING

H.B. No. 1824:

Representative Saiki moved that H.B. No. 1824, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. I will be voting no on this measure. This is the bill that would require plumbers to take continuing education courses. I believe there's no evidence demonstrating a need for imposing this additional licensing requirement. Complaints against plumbers on the technical knowledge of the practice are rare. There is uncertainty whether the community colleges will in fact be able to develop and offer continuing education courses to meet the requirements of the bill. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and H.B. No. 1824, entitled: "A BILL FOR AN ACT RELATING TO ELECTRICIANS AND PLUMBERS," passed Third Reading by a vote of 40 ayes to 7 noes, with Representatives Blundell, Fox, Jernigan, Marumoto, Meyer, Moses and Ontai voting no, and with Representatives Bukoski, Kaho'ohalahala, M. Oshiro and Takamine being excused.

H.B. No. 2064:

Representative Saiki moved that H.B. No. 2064, pass Third Reading, seconded by Representative Lee.

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

Representative Marumoto's written remarks are as follows:

"Mr. Speaker, I rise to speak in support of House Bill Number 2064. This housekeeping measure is an important measure that is a long time in coming. The most recent amendments to Chapter 651-124 of the Hawaii Revised Statutes predate the creation of the Roth Individual Retirement Account. As most people know, the Roth Individual Retirement Account is a retirement device in which people deposit after tax income. They do not receive an income tax deduction for this, as people do with pre-tax deposits into regular individual retirement accounts. However, when a retiree withdraws funds from the Roth IRA, the withdrawn funds are not taxed as income.

"Chapter 651-124 of our Hawaii Revised Statutes provide that retirement plans as referenced by federal statute are exempt from attachment due to bankruptcy. Bankruptcy is an unfortunate reality, and the Legislature has articulated a policy protecting retirement accounts from attachment. As aforementioned, the most recent amendments to Chapter 651-124 predate the creation of the Roth IRA, thus, the federal code that creates the Roth IRA is not referenced within the statute.

This measure simply updates our law to reflect the extension of that protection to this contemporary retirement device.

"For these reasons, I stand in support of the measure and urge my colleagues to support passage of this measure. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 2064, entitled: "A BILL FOR AN ACT RELATING TO EXEMPTING ROTH INDIVIDUAL RETIREMENT ACCOUNTS FROM ATTACHMENT OR SEIZURE," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Kaho'ohalahala, M. Oshiro and Takamine being excused.

H.B. No. 2558, HD 1:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2558, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PENSION PLANS," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Kaho'ohalahala, M. Oshiro and Takamine being excused.

H.B. No. 2363, HD 1:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2363, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC BENEFIT CORPORATIONS," passed Third Reading by a vote of 42 ayes to 5 noes, with Representatives Abinsay, Evans, Kahikina, Mindo and Sonson voting no, and with Representatives Bukoski, Kaho'ohalahala, M. Oshiro and Takamine being excused.

H.B. No. 1737, HD 1:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 1737, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE BROKERS AND SOLICITORS," passed Third Reading by a vote of 46 ayes to 1 no, with Representative Stonebraker voting no, and Representatives Bukoski, Kaho'ohalahala, M. Oshiro and Takamine being excused.

H.B. No. 2166, HD 1:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2166, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND USE COMMISSION," passed Third Reading by a vote of 39 ayes to 8 noes, with Representatives Blundell, Jernigan, Leong, Marumoto, Meyer, Moses, Ontai and Pendleton voting no, and with Representatives Bukoski, Kaho'ohalahala, M. Oshiro and Takamine being excused.

H.B. No. 2004, HD 1:

Representative Saiki moved that H.B. No. 2004, HD 1, pass Third Reading, seconded by Representative Lee.

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

"In support with reservations. This bill does two things. It does form a group to study how to coordinate the effort to find effective substance abuse programs and move ahead on the treatment front, and it appropriates money for treatment.

"The Lieutenant Governor looked at this whole area. He concluded that the Task Force on ice, and the summit that he had held were moving in similar directions. And it was, among other things, agreed that there was a lack of data about

substance abuse, and it's difficult to assess gaps in service and determine where funding was well spent.

"We have ongoing programs to deal with substance abuse. The Lieutenant Governor feels, and it makes sense to me, that when we spend money on substance abuse, it ought to be on programs that work effectively and produce results, and that we have got to determine that before we start spending the money. It's like you take the first step, which is to determine how to do it, and then you spend the money. You don't do them both at the same time. That's the reason for my reservation. Thank you."

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

"Thank you, Mr. Speaker. I would like to speak in strong support of the measure.

"Thank you, Mr. Speaker. And first of all, I would like to acknowledge the Majority Leader for also acknowledging the Health Committee for trying to bring the issue of ice as a public health problem and a major epidemic that we are facing.

"To be honest, Mr. Speaker, I was somewhat concerned when the Chair of our Judiciary Committee was appointed to head the Task Force because I thought then, you know, the major emphasis would be on public safety and law enforcement. But I'm very pleased that instead, the answers have been focused on the fact people do recognize crystal meth to be a public health crisis and that we need to have a public health response. And I think this happened because they listened to what people were saying in the community. We need not to focus solely on punishment and law enforcement, but instead on treatment, intervention, and prevention.

"Early intervention, especially for young people, is critical, especially now. You know, we have statistics that show there's over 5,000 adolescents needing some type of treatment. We also recognized that school-based treatment and intervention is probably the most effective way to provide access to our young people to needed services and linkages to services. And we also know that prevention is critical to stop the spread of the use of crystal meth. You know it's not enough to tell our kids to say no to drugs. We need to find effective and cost savings alternatives.

"Crystal meth as we now know, or ice, is like a cancer. It's a social cancer. And like cancer, if we leave it untreated it will affect all parts of this body of citizenry. And also like cancer, we also know that the earlier it is detected and treated, the better the chance of remission or cure.

"I know there will be some who are concerned about the cost and the funding of this type of measure. But I think we need to balance and look at how much it costs to incarcerate a person as opposed to funding meaningful and effective after-school programs. And I think, Mr. Speaker, if you remember about 15 years ago, we did what we called a 'gang response system'. And the focus then was not on law enforcement. There was some measure of law enforcement, but it was focused on prevention. And I think the fact that we avoided the gang problem unlike many other Mainland cities is a testament to that kind of strategy.

"And finally, I think we heard from our Governor in her State of the State speech that politicians think about the next election, but statesmen think about the next generation. And indeed this measure thinks about the next generation. So with that I would like to urge everyone to support this measure."

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

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

Representative Hamakawa's written remarks are as follows:

"Mr. Speaker, I rise in support of HB2004, HD1. Today, we have a once in a decade opportunity to take a giant step to fix a problem. That problem is the ice epidemic. The ice epidemic is real. The ice epidemic affects all our lives. The ice epidemic costs lives, costs jobs. The ice epidemic costs government.

"Here in Hawaii, we have lived through a decade of tough economic times. Our State budget was stripped to bare bones. We patched and taped our way through problems. Each year, we hoped that in the following year, a solution could be found to the many needs of the State.

"The first wave of the ice epidemic was just another problem that we did not have the resources to fix – at that time. We recognized the growing ice problem. Over the last decade we watched, almost powerless to stop this disease's march into our families.

"Today, our economy has shown encouraging signs of a turn around in all areas. There is hope that better times are ahead for the people of Hawaii, after a decade of bad times. But, the dark side of our recovery is the ice epidemic. If we don't stop the ice epidemic, Hawaii cannot turn around its economy. Hawaii residents cannot improve our lives.

"The ice epidemic is draining our resources. We must put a stop to the ice epidemic now. The solution is to stop the demand for ice. We must stop the demand for ice now. We must invest in the future generation of Hawaii. If we do not act now, we will lose another generation of young adults to the ice addiction.

"Today, we bring forth a \$19 million appropriation bill that marks the beginning of the end of the ice epidemic. This bill attacks the ice epidemic in six basic ways: treatment and prevention aimed at our youth and families; treatment of our adult ice addicts; treatment for our adult criminal drug offenders; community education, mobilization and support; drug interdiction and environmental effects from clandestine labs; and accountability.

"First, treatment and prevention aimed at our youth and families. This bill appropriates:

\$4.5 million to adolescent treatment in our schools.

5,000 children in our schools need treatment for illicit drug use and do not receive it. This money will expand school based treatment down to the middle schools where treatment and prevention programs are most likely to be effective at turning children away from drugs.

\$2 million for State administered community based prevention programs, with priorities given to programs that address drug education and awareness in the schools, youth activities, education and support for families and parenting women, community partnerships.

\$1 million to our counties for community based prevention programs. Funding for prevention programs aimed at youth and families is vitally needed. One out of 100 children begin marijuana use before age 10. 50% of our youth has tried

drugs by age 15. Prevention programs work. We must remain vigilant in our prevention efforts.

\$100,000 for a Child Endangerment Task Force to study the first response program to protect children in drug families.

"Tax credit for employers. Along with direct State funding for services, this bill also seeks partnerships with the business community. \$250 tax credit for employers who provide the one hour drug education and prevention program to its employees. \$500 tax credit for each recovering employee hired by employers who partner with community based treatment agencies to hire recovering drug addicts.

"Second, adult treatment. This bill appropriates:

\$7 million for adult treatment and family counseling, with priorities given to women of child-bearing age, parents with young children, and Native Hawaiians.

Our priorities for treatment of women of child-bearing age and parents with young children is based on the need to keep families intact, to reduce the enormous costs of foster care and supervision of children who are the products of drug addicted parents. 85-90% of the child welfare caseload is due to drug use. This costs the State \$88 million each year.

Our priority to treat Native Hawaiians and part Hawaiians is included because this is the fastest growing group of ice abusers in need of treatment. The number of these ice abusers is disproportionate to their population.

Tax credit for landlords who enter into long term leases for clean and sober homes. This bill would provide 3 months tax credit to landlords who lease to community-based 'clean and sober' homes for recovering addicts.

"Third, adult criminal drug offenders. This bill appropriates:

\$1.2 million to expand Drug Court, for all offenders who need treatment as well as juvenile and family Drug Courts.

\$1.430 million to expand treatment for first time drug offenders, who are sentenced to probation under the supervision of the Judiciary. The most difficult cases will be referred to Drug Court.

\$170,000 to the Hawaii Paroling Authority for treatment of parolees. It costs the State \$30,000 per person to imprison a drug offender. The \$1.8 million we spend for treatment is less than one third the cost to imprison the drug offender.

"Fourth, community mobilization and support. This bill appropriates:

\$500,000 to the counties to be matched by the counties for community mobilization grants of up to \$10,000. Each county will receive \$125,000.

\$200,000 to the Public Safety Department to coordinate the statewide community drug abatement efforts. These funds are needed to support the community efforts that are critical to educate the public and respond to the community needs for law enforcement drug abatement activities in the neighborhoods.

"Fifth, drug interdiction and environment. This bill appropriates:

\$190,000 for canine drug interdiction. Drug sniffing dogs work. They are important tools for the drug interdiction efforts of State law enforcement.

\$300,000 to study the environmental effects of clandestine meth labs. We know that meth labs are toxic to our environment. We don't know the extent of the problem and whether we have the tools and resources in place to respond. This study will address these issues.

"Sixth, accountability. This bill appropriates:

\$400,000 for a system monitoring of treatment and prevention programs that allows us to determine whether these programs are effective and whether we are winning the battle in the ice epidemic.

"Mr. Speaker, we have the opportunity this year to make a difference in the fight against ice addiction. We have run out of time. We have run out of options. The \$19 million we spend today will save us seven times that amount in government expenditures to support the persons and families addicted to ice.

"This is money well spent. This bill reflects most of the recommendations of the Joint House Senate Task Force on Ice and Drug Abatement. Those recommendations were based on the community's identification of the greatest needs. This bill is the response to what the community asked for. I urge you to support this bill."

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

Representative Meyer 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 Meyer's written remarks are as follows:

"As a member of the Joint Task Force on Ice and Drug Abatement, I am sympathetic to the problem at hand. I also realize that we have ignored this growing menace in our communities far too long. I believe treatment can work and that recovery and rehabilitation is possible. I also acknowledge that prevention efforts to date have not been sufficiently effective, though I believe they can be much more effective if some of the legislative changes that have been proposed in other measures would be adopted, such as wiretap and 'walk and talk', etc.

"I am supporting this bill, but I continue to have concerns. The state currently spends approximately 21 million dollars on existing treatment and prevention programs. This bill doubles the funds for these services, by adding another 20 million without the benefit of data to substantiate their effectiveness. Treatment providers have not produced recidivism figures to support their claims of long-term recovery and rehabilitation for those that have passed through their program. Without this critical information, this action amounts to shooting taxpayers money into the dark.

"I would prefer to see an incremental financial appropriation that is tied to some form of feedback mechanism that will tie tax dollars, to results. As we treat the drug epidemic that we are all very concerned about, we would be creating a correlation between dollars spent and positive results.

"I have a problem with the 'revolving door' nature of the programs that this bill will fund. Treatment is the means, not the end- recovery and rehabilitation is the end, and recovery doesn't happen if people are in and out of treatment houses on a whim. I would much prefer to see the money go towards a medium security drug treatment facility that utilizes more

structure, and keeps those admitted until they have completed the program.

I wholeheartedly support money for the Drug Courts. The Drug Courts have proven effective and balance the opportunities for treatment and recovery with consequences in a way that has proven to produce positive results."

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

Representative Luke rose in support of the measure, stating:

"Thank you, Mr. Speaker. Just brief comments in strong support. This is the second portion of the bill, the culmination of the work that the Joint Task Force has done. And just to reiterate, I want to thank you Mr. Speaker, for having the foresight to create this Committee.

"The Committee began its work in July of last year and completed its work in November. Actually their work hasn't really been completed yet until we get these bills passed. And just to reiterate, they spent over 80 hours in public hearings or going out to the community. And this shows that our Legislature's role does not end when Session finishes. But if individual Members put in 80 or more hours to go out to individual communities and actually get to know the different issues, and do the type of work that the Joint Committee Members have done, we can get a lot of things done.

"I want to commend the Leadership of the Representative from the Big Island, and the Vice Chair of the Committee, the Representative from Waimanalo, for doing a tremendous job.

"And just to respond to the idea of collecting more data, Mr. Speaker, we don't need another year of study. We know what we need to do, and we need to do it right now. Thank you."

Representative Magaoay rose in support of the measure, stating:

"Thank you, Mr. Speaker. In strong support with written comments to be inserted in the Journal," and the Chair "so ordered."

Representative Magaoay's written remarks are as follows:

"Mr. Speaker, Members of the House, I stand in support of HB 2004, HD1. This appropriation measure supports the comprehensive plan proposed in HB 2003, HD1. We begin with a figure of \$18,890,000.00 to wage this battle against ice. Again I call upon my honorable colleagues to listen well to the heads of the different departments, agencies, counties and employers. They will testify and bring to our attention their concerns on the application of monies to the charges they must undertake in implementing the war on ice. Let us engage in intelligent and focused debate on the issues before us. It is our responsibility to forge workable laws. It is our obligation to wisely apply taxpayers well-earned monies. It is our duty to best leverage the application of law and funds efficiently amongst our departments, agencies, counties, and employers. Our goal remember, is to eliminate further suffering and damage to our society. Thank you."

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

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

"Thank you, Mr. Speaker. I'm in support with reservations. Basically, I like the fact that we are funding programs. But some of the problem is that we haven't had the data yet. Whether they are tried and true, and they will work.

"But also I note that all of the law enforcement agencies basically were opposed to the measure. My belief is that they were probably opposed to it because it doesn't do anything to help their cause, which is to apprehend those that are drug users. Instead it just puts more money into rehabilitation programs. I think both ends of the spectrum are necessary. Thank you, Mr. Speaker."

Representative Hale rose in support of the measure, stating:

"In strong support with written comments in the Journal," and the Chair "so ordered."

Representative Hale's written remarks are as follows:

"Mr. Speaker, I stand in strong support for HB 2004, HD 1. This shows the determination of the House of Representatives to "put their money where their mouth is". By funding and seriously treating drug addiction as a health problem, we may be able to eventually teach our young people that it is no solution to a productive and healthy life. Although I do believe that those who make a financial gain from preying on those susceptible to such addiction should receive harsh punishment, I also think that putting those addicted in prison only makes the problem worse. We have not even been able to control drug use among prisoners, let alone treat their addiction effectively, therefore, I urge all my colleagues to vote in favor of this bill. Thank you, Mr. Speaker.

Representative Kawakami rose in support of the measure, stating:

"In strong support of this measure and the Task Force's work, and I would like my comments in the Journal," and the Chair "so ordered."

Representative Kawakami's written remarks are as follows:

"Mr. Speaker, I am in favor of H.B. 2004 and I would like my comments to be entered into the Journal. Mr. Speaker, and colleagues, I am in strong support of H.B. 2004. As the appropriations portion, Section 14 of H.B. 2004 would greatly enhance Kauai's ability to combat ice in our State by providing the necessary funding essential to retaining and sustaining proactive grassroots anti-drug campaigns.

"Currently there is no drug treatment facility on Kauai. Part III, Section 18 grants each eligible taxpayer an income tax credit for leasing rental property to be used as a drug rehabilitation home. H.B. 2004 will go a long way to effectively interdict and offer treatment options thus serving to stem the tide of drug abuse in our State. I urge your support of this measure."

At 2:08 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 2:09 o'clock p.m.

Representative Stonebraker rose, stating:

"Mr. Speaker, can we have a recess, please?"

The Chair responded, stating:

"I can't call a recess, but you can state your point. Representative Stonebraker, the Chair will recognize you, but I won't call a recess since we are going through the vote."

Representative Stonebraker: "Okay. I just wanted to give her a chance to compile the votes."

At 2:10 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 2:12 o'clock p.m.

At this time, Representative Lee rose, stating:

"Mr. Speaker, I just wanted to make a correction for the record. On a bill that has already been voted on, Stand. Com. Report Number 522-04, House Bill Number 2630, I had stated that Representative Mindo voted no. That was incorrect. That was an error on my part. Thank you."

Speaker Say: "But the vote has already been taken."

Representative Lee: "I understand that. I just wanted to make sure that it's in the record."

The motion was put to vote by the Chair and carried, and H.B. No. 2004, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ILLEGAL USE OF CONTROLLED SUBSTANCES," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Kaho'ohalahala, M. Oshiro and Takamine being excused.

At 2:13 o'clock p.m., the Chair noted that H.B. Nos. 1824; 2064; 2558, HD 1; 2363, HD 1; 1737, HD 1; 2166, HD 1; and 2004, HD 1; passed Third Reading.

END OF CALENDAR

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 521-04) recommending that H.B. No. 2844, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2844, HD 1, pass Third Reading, seconded by Representative Lee.

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

"I'm sorry Mr. Speaker, but I have reservations on this measure. And one is that it's creating a special fund of course. And the other one is the way that the money is going into the special fund. Thank you."

Representative Meyer 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 Meyer's written remarks are as follows:

"I rise in support with some reservations. The intention of this bill is commendable. It seeks to support treatment and prevention of crystal methamphetamine addiction, but by using

a ½-cent tax on cigarettes earmarked for tobacco prevention and cessation programs to do so. This will divert funding from these tobacco programs. I am concerned that we are seeking to address one group's need, while penalizing another group. Mr. Speaker, I am also concerned that this might turn into a vehicle for a broad new tax on tobacco products which I could not support. Please record my reservations on HB 2844 HD1. Thank you."

Representative Finnegan 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 Finnegan's written remarks are as follows:

"Mr. Speaker, I rise with reservations on S.C.R. 521-04, H.B. 2844, H.D. 1. This measure, Mr. Speaker, creates a crystal methamphetamine treatment and prevention special fund and deposits in it revenue from one-half cent of the excise tax collected on cigarettes. I recognize the importance of drug treatment, and I know that this body is considering every possible revenue source in order to find the money to fund it.

"However, I believe that if funds from the cigarette excise taxes are going to be dedicated to a particular purpose, they should be used on tobacco prevention and smoking cessation programs. Those who pay these excise taxes – smokers – should see the benefits of these taxes. Furthermore, I think tobacco prevention programs can assist us in our battle against crystal meth. Tobacco is a well-known gateway drug – using it makes individuals more likely to move on to other drugs. In the case of minors, it is an illegal drug, and using it helps them grow more accustomed to the idea of using illegal drugs. Through tobacco prevention programs, we can cut down on the use of this drug and hopefully convince our citizens, particularly minors, to keep away from ice in search of a greater high.

"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. 2844, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CRYSTAL METHAMPHETAMINE," passed Third Reading by a vote of 45 ayes to 2 noes, with Representatives Leong and Marumoto voting no, and with Representatives Bukoski, Kaho'ohalahala, M. Oshiro and Takamine being excused.

At 2:15 o'clock p.m., the Chair noted that H.B. No. 2844, HD 1, passed Third Reading.

INTRODUCTION OF RESOLUTION

By unanimous consent, the following concurrent resolution (H.C.R. No. 46) was referred to Printing and further action was deferred:

H.C.R. No. 46, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A MANAGEMENT AND FINANCIAL AUDIT OF THE DEPARTMENT OF PUBLIC SAFETY," was offered by Representative Ito.

ADJOURNMENT

At 2:15 o'clock p.m. on motion by Representative Lee, seconded by Representative Meyer and carried, the House of Representatives adjourned until 12:00 o'clock noon tomorrow, Tuesday, March 2, 2004. (Representatives Bukoski, Kaho'ohalahala, M. Oshiro and Takamine were excused.)

TWENTY-SEVENTH DAY

Tuesday, March 02, 2004

The House of Representatives of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004, convened at 12:03 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 Hiraki, Meyer, Pendleton, Schatz and Takamine, who were excused.

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

GOVERNOR'S MESSAGE

The following message from the Governor (Gov. Msg. No. 139) was received and announced by the Clerk and was placed on file:

Gov. Msg. No. 139, transmitting the Separation Incentives Program Report of the Department of Human Resources Development.

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 30 through 42) were received and announced by the Clerk:

Sen. Com. No. 30, transmitting S.B. No. 1491, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE GOVERNMENT," which passed Third Reading in the Senate on March 1, 2004.

Sen. Com. No. 31, transmitting S.B. No. 2074, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CAMPAIGN SPENDING," which passed Third Reading in the Senate on March 1, 2004.

Sen. Com. No. 32, transmitting S.B. No. 2139, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE MUSEUM OF HAWAIIAN MUSIC AND DANCE," which passed Third Reading in the Senate on March 1, 2004.

Sen. Com. No. 33, transmitting S.B. No. 2153, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," which passed Third Reading in the Senate on March 1, 2004.

Sen. Com. No. 34, transmitting S.B. No. 2372, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," which passed Third Reading in the Senate on March 1, 2004.

Sen. Com. No. 35, transmitting S.B. No. 2444, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PROBATE CODE," which passed Third Reading in the Senate on March 1, 2004.

Sen. Com. No. 36, transmitting S.B. No. 2815, entitled: "A BILL FOR AN ACT RELATING TO MILK CONTROL," which passed Third Reading in the Senate on March 1, 2004.

Sen. Com. No. 37, transmitting S.B. No. 2827, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CAMPAIGN SPENDING," which passed Third Reading in the Senate on March 1, 2004.

Sen. Com. No. 38, transmitting S.B. No. 2969, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RECORDATION," which passed Third Reading in the Senate on March 1, 2004.

Sen. Com. No. 39, transmitting S.B. No. 3068, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO STATE FUNDS," which passed Third Reading in the Senate on March 1, 2004.

Sen. Com. No. 40, transmitting S.B. No. 3144, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ATTORNEYS," which passed Third Reading in the Senate on March 1, 2004.

Sen. Com. No. 41, transmitting S.B. No. 3233, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ILLEGAL USE OF CONTROLLED SUBSTANCES," which passed Third Reading in the Senate on March 1, 2004.

Sen. Com. No. 42, transmitting S.B. No. 3234, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ILLEGAL USE OF CONTROLLED SUBSTANCES," which passed Third Reading in the Senate on March 1, 2004.

On motion by Representative Lee, seconded by Representative Bukoski and carried, the following Senate bills passed First Reading by title and further action was deferred: (Representatives Hiraki, Meyer, Pendleton, Schatz and Takamine were excused.)

S.B. No. 1491, SD 1	S.B. No. 2827, SD 1
S.B. No. 2074, SD 1	S.B. No. 2969, SD 1
S.B. No. 2139, SD 1	S.B. No. 3068, SD 2
S.B. No. 2153, SD 2	S.B. No. 3144, SD 1
S.B. No. 2372, SD 1	S.B. No. 3233, SD 1
S.B. No. 2444, SD 1	S.B. No. 3234, SD 1
S.B. No. 2815	

At 12:10 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

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

At 12:13 o'clock p.m., Representative Saiki requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:13 o'clock p.m.

ORDER OF THE DAY

COMMITTEE ASSIGNMENTS

The following concurrent resolution (H.C.R. No. 46) and Senate concurrent resolution (S.C.R. No. 12) were referred to committee by the Speaker:

H.C.R.
No.Referred to:

46

Committee on Public Safety and Military Affairs,
then to the Committee on Finance

S.C.R.

No. Referred to:

12, Committee on Transportation, then to the
SD 1 Committee on Finance

COMMITTEE REASSIGNMENT

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

H.C.R.**No. Re-referred to:**

23 Jointly to the Committee on Legislative
Management and the Committee on International
Affairs

**INTRODUCTION OF RESOLUTIONS
(FLOOR PRESENTATIONS)**

The following resolutions (H.R. Nos. 30 and 31) were announced by the Clerk and the following action taken:

H.R. No. 31, entitled: "HOUSE RESOLUTION CONGRATULATING ASIAN AFFAIRS LEADERS FRANK BOAS, LISA T. MURAYAMA, GERALD SUMIDA, BRENDA LEI FOSTER, AND DIANE PETERS-NGUYEN ON THE OCCASION OF THE PACIFIC AND ASIAN AFFAIRS COUNCIL'S 50TH ANNIVERSARY," was jointly offered by Representatives Fox, Blundell, Hiraki, Halford, Souki and Takumi.

Representative Fox moved that H.R. No. 31 be adopted, seconded by Representative Takai.

Representative Fox introduced the honorees who were seated on the floor of the House:

Mr. Frank Boas, President of Pacific and Asian Affairs Council's (PAAC) Board of Governors;

Mr. Gerald Sumida, Past President of PAAC and this year's Distinguished Alumni Honoree;

Ms. Brenda Lei Foster, Past Executive Director of PAAC; and

Ms. Diane Peters-Nguyen, Past Executive Director of PAAC.

At this time, Representative Fox introduced the following guests who were seated in the gallery:

Ms. Tandy Awaya, PAAC's Higher Education and Community Relations Coordinator;

Ms. Adria Estribou, PAAC's Associate Director;

Mr. Mitch Imanaka, PAAC's Board of Governors' Treasurer;

Ms. Cobey Black, PAAC's Board of Governors' Secretary;

Ms. Teresita Bernales, PAAC's International Visitor Program Coordinator;

Mr. Jason Jones, PAAC's High School Director;

Mr. Larry Foster, Brenda Foster's husband

Ms. Heidi Wild, Gerald Sumida's wife

Mr. Sandy Sumida, Gerald Sumida's father; and

Ms. Li Lundin, PAAC Member;

Representative Takai then introduced the last honoree seated on the floor of House:

Ms. Lisa Murayama, the current Executive Director for PAAC.

The motion was put to vote by the Chair and carried, and H.R. No. 31 was adopted with Representatives Hamakawa, Meyer, Nakasone, Schatz and Takamine being excused.

H.R. No. 30, entitled: "HOUSE RESOLUTION RECOGNIZING THE CONTRIBUTIONS OF THE GO FOR BROKE EDUCATIONAL FOUNDATION," was offered by Representative Takumi.

Representative Takumi, moved that H.R. No. 30 be adopted, seconded by Representative Takai.

Representative Takumi introduced the following honorees who were seated on the floor of the House:

Ms. Christine Sato-Yamasaki, Executive Director of the Go For Broke Educational Foundation;

Mr. Manabi Hirasaki, Veteran;

Mr. Ted Ohira, Veteran;

Ms. Judy Nagasako, Hawaii Department of Education-Character Education Program; and

Ms. Karin Mackenzie, Nisei Veterans Endowed Forum.

Representative Takai then recognized the members of the following groups who were seated in the gallery:

The 100th Infantry Battalion Veterans Club;

The 442nd Veterans Club;

The Military Intelligence Service Veterans Club;

The 1399th Engineer Construction Battalion; and

The Nisei Veterans Endowed Forum Series, University of Hawaii.

The motion was put to vote by the Chair and carried, and H.R. No. 30 was adopted with Representatives Meyer, Nakasone, Schatz and Takamine being excused.

At 12:34 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:56 o'clock p.m. with the Vice Speaker presiding.

LATE INTRODUCTION

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

Representative Shimabukuro introduced three members of the AARP: Mr. Stanley Samson; Ms. Ruby Silva; and Ms. Alicia Maluafiti, who were seated in the gallery:

UNFINISHED BUSINESS

The Chair addressed the Members, stating:

"Members, the three House Bills, H.B. Nos.: 33, HD 2; 1895, HD 1; and 1897, HD 1, will be deferred one legislative day."

H.B. No. 33, HD 2:

By unanimous consent, H.B. 33, HD 2, was deferred one legislative day.

H.B. No. 1895, HD 1:

By unanimous consent, H.B. 1895, HD 1, was deferred one legislative day.

H.B. No. 1897, HD 1:

By unanimous consent, H.B. 1897, HD 1, was deferred one legislative day.

SUSPENSION OF RULES

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

UNFINISHED BUSINESS

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 523-04) recommending that H.B. No. 2005, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2005, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. Madame Speaker, I want to speak in strong support of House Bill 2005. Madame Speaker, I really need to thank you as well as Mr. Speaker and the House Leadership, including our Minority for making this important health measure a priority for this session. We're also indebted to the Education Chair for his diligence and persistence in pursuing and responding to issues and concerns raised about this initiative from the time it was first proposed two years ago until now.

"Madame Speaker and colleagues, there are thousands of people who will stand in gratitude for this memorable day when we move to truly represent the consumer interest over the profit margins of corporate giants. It is a victory for the 'little Davids', such as the frail elderly, those with chronic diseases, those with mental illness, even for people like you and me and the rest of the colleagues on our floor.

"Madame Speaker and colleagues, we often don't realize how fortunate we are to have such a generous and comprehensive health plan. Yet we find ourselves paying more and more in the form of co-payments for prescription drugs. Just imagine what it is like for those who do not have these prescription drug plans. Most of who are on fixed incomes. And as prescription drug prices increase or prescription drugs are added on, many are forced to choose between eating or taking their medication, paying the rent or taking the prescribed dosages.

"Madame Speaker, prescription drugs are the true health miracles of this modern world. They not only provide for the quality of life, but for many it is the difference between life and death. Whether people's lives should depend on the ability to pay is perhaps a discussion for another day, but certainly we need to empower our consumers especially those in need, to access the care through prescription drug. So Madame Speaker, I urge all of our colleagues to strongly support this measure as well, on behalf of the people of Hawaii. Thank you, Madame Speaker."

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

Representative Stonebraker's written remarks are as follows:

"I am happy to support the Hawaii Rx Plus Program. Two years ago this House passed the Hawaii Rx Program. At the time it was not clear how effective that plan would have been. It was an attempt, at any rate, to provide prescription drugs to Hawaii citizens and, as such, I supported it.

"As the Members would later learn, that bill, based on the Maine legislation, was fatally flawed. In fact, the State of Maine was stuck in court due to suits filed by the drug manufacturers. The Maine Rx bill was eventually reformulated and passed in Special Session as 'Maine Rx Plus'.

"Foreseeing this risk, our newly elected Governor wisely withheld implementation. Rather, she worked with the Department of Human Services Director Lillian Koller to work out the flaws in the Hawaii Rx bill.

"The result of that hard work is the Hawaii Rx Plus bill that we see today. Of course, we realize the Administration bill was killed and the Majority Package bill is moving forward. But these are petty political moves that I can overlook as part of the strategy of politicians.

"What is important is that the content and intent of the Governor's bill has been added in order to correct the flaws originally contained in the Majority bill.

"Specifically, the Hawaii Rx Plus bill:

Addresses the concerns of the Centers for Medicare and Medicaid Services to protect access of Medicaid clients to the prescription drugs that they need,

Prevents loss of prescription drug benefits to employees covered by employer-sponsored drug benefit plans, and

Addresses the concerns of pharmacies and drug manufacturers to ensure that drug prices for citizens not enrolled in the program are not adversely affected.

"For these reasons I offer my full support of this bill."

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

"Thank you, Madame Speaker. I would like to commend on my colleagues for coming up with a fine bill. I'm supporting it whole-heartedly and especially for working with Director Koller and the AARP to come up with a bill that everybody can support. Thank you very much."

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

"Thank you, Madame Speaker. I rise in support of this measure.

"Thank you. You know this is a very momentous occasion for us because I believe last year we had a long debate on the Hawaii Rx plans and in fact it divided our House. The prior speaker, the Chairman of the Health Committee mentioned that this effort really began two years ago. I would say that this effort began even further away than that, possibly 3, maybe 4 years ago.

"I would like to at this point, have the record reflect that it was really the Chairman of the Education Committee, the current Chairman of the Education Committee who really put this issue in the forefront of our agenda. He worked hard on it when we didn't even know what was going on. We didn't even understand the whole issue. In some respects, I don't understand all of the issues today, but I do know that what we have today is as a result of his hard work. And I want people to realize that because you know, we can all take credit for great legislation, and we all will. We will go back to our communities and say that we passed an excellent Hawaii Rx Plus program. But let's not forget that in this particular instance, it was one of our colleagues who worked real hard on this measure, for this issue, and got us to the point where we are today. Thank you."

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

Representative Finnegan's written remarks are as follows:

"Madam Speaker, I rise in support of H.S.C.R. 523-04, H.B. 2005, H.D. 1. I was honored to be appointed to the Governor's task force on the Hawaii Rx program and enjoyed my work on it with members such as the Chair of the Education Committee and the Director of Human Services. I am very happy to see the administration and the Legislature able to work together on this important issue and arrive at a solution that pleases everyone.

"I would like to congratulate and commend the Chair of the Education Committee for his work on this issue. He and I do not see eye-to-eye on every issue, even on all aspects of the prescription drug issue, but he has worked hard for this measure and his passion and commitment on the issue cannot be questioned. He deserves to enjoy this moment, and I hope he does.

"I would also like to congratulate our Director of Human Services, who has put a tremendous amount of time and effort into this issue. Her work helped develop the language that we see before us and that has enabled this bill to move without the partisan conflict seen on other contentious issues. She deserves the appreciation of this House and of the public.

"While there have been disagreements between us on this issue in the past, they have led to the solution that we see before us. I hope our disagreements on other issues will eventually lead to similar solutions.

"Thank you, Madam Speaker."

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

Representative Saiki's written remarks are as follows:

"Mr. Speaker, I rise in strong support of H.B. 2005.

"When the Legislature convened in January, the members of your Majority Caucus joined with their Senate counterparts and announced that they would prioritize legislation to bring prescription drug price relief to Hawaii's residents. The legislation before us is the result of the work of the House and Senate Majority caucuses.

"I would like to thank all of the Members of this body who have made this legislation possible. I would also like to thank AARP Hawaii for its advocacy, as well as the Center for Policy Alternatives ("CPA") in Washington, D.C., for initiating a national campaign to enact prescription drug reform several years ago. CPA has been largely instrumental - beginning with its efforts in Maine - to bring prescription drug price relief to citizens throughout the United States. I would like to incorporate the following text from CPA's 2004 Progressive Agenda for the States that aptly describes prescription drug price reform legislation. Thank you."

"2004 POLICY SUMMARY Prescription Drug Pricing

Summary:

A health crisis is sweeping this country, threatening the lives of millions of Americans and the solvency of state health programs--soaring prices for prescription drugs.

One in four Americans--70 million--do not have insurance covering prescription drugs.

Drug manufacturers sell identical pharmaceuticals to different purchasers at widely varying prices.

Through free market negotiations, each state can substantially lower drug prices for both the uninsured and for the state Medicaid programs.

In recent years, at least 26 states have implemented programs to lower drug prices.

The Fair Market Drug Pricing Act is based on voluntary negotiations with drug companies and doesn't cost taxpayers a dime.

A health crisis is sweeping this country, threatening the lives of millions of Americans and the solvency of state health programs--soaring prices for prescription drugs.

Drug prices are out of control, rising twice as fast as the inflation rate. The problem is literally an epidemic, as many Americans, especially seniors on fixed incomes, are forced to risk their health by sharing drugs, skipping doses, or doing without medicine altogether because it is simply too expensive. At the same time, skyrocketing drug prices could compel states to make cuts in critical medical assistance programs.

One in four Americans--70 million--do not have insurance covering prescription drugs.¹

Not counting Medicare beneficiaries, more than 52 million Americans younger than 65 years old lack prescription drug coverage.² - More than 10 million children are among the uninsured.

Drug manufacturers sell identical pharmaceuticals to different purchasers at widely varying prices.

On average, uninsured Americans pay about twice as much as the federal government pays for the same drugs. Uninsured families are charged far more for prescriptions than their insured neighbors, even in the same pharmacy. Similarly, state

Medicaid programs pay a price, fixed by federal law, which is 20 to 40 percent higher than the federal government pays. Drug manufacturers make a healthy profit even on the lowest prices they charge the federal government.

Through free market negotiations, states have substantially lowered drug prices for Medicaid and other state programs. Prior to 2001, only California authorized the use of preferred drug lists, and negotiating supplemental rebates to lower prescription drug prices paid by the state Medicaid program. Since 2001, at least 26 states have initiated these policies (AL, CT, FL, GA, HA, IN, IL, KY, LA, ME, MD, MA, MI, MN, NC, NM, OH, SC, SD, TN, TX, UT, VT, VA, WA and WV), saving states over one billion dollars per year.

INEQUITIES IN PRESCRIPTION DRUG PRICES

If the retail cost for a particular dosage and quantity of a brand name prescription drug is \$100, on average:

• An uninsured resident pays \$100 for that prescription.

Medicaid and large HMOs pay \$65.

Federally-qualified health centers pay \$54 (called the "340B" price).

The federal government (largely, the U.S. Departments of Defense and Veterans Affairs) pays \$46 or less.³

Drug manufacturers make a healthy profit on all of these prices.

Through free market negotiations, states have also lowered drug prices for uninsured residents. In 2000, Maine enacted legislation that directs the state to use its bulk purchasing power to negotiate steep drug discounts for the uninsured. This law, called Maine Rx, was challenged in the courts and finally upheld in 2003 by the U.S. Supreme Court.⁴ Hawaii enacted a version of Maine Rx in 2002. In 2003, Illinois, South Dakota, and Washington all enacted plans which direct the states to use their purchasing power to negotiate lower drug prices for individual residents.

The Fair Market Drug Pricing Act combines the approaches of several laws to lower drug prices for both state programs and state residents. The Fair Market Drug Pricing Act is most similar to the law enacted in Hawaii. The Act:

Directs the state Secretary of Health (or similar cabinet Secretary) to negotiate voluntary drug discounts or rebates from prescription drug manufacturers and labelers.

Gives the Secretary the leverage to negotiate with drug companies in much the same way HMOs and health insurance companies negotiate--allowing the Secretary to place on the state Medicaid "prior authorization" list the products of any drug company that refuses to offer a substantial discount that is at least as favorable as the "340B" price.

Directs the Secretary to set up and administer an Rx Card program, passing negotiated discounts to the people who need them--uninsured seniors on Medicare, and residents earning less than 300 percent of the poverty level.

Empowers the Secretary to combine drug pricing negotiations for Medicaid, the Rx Card program, and any other state health programs, to maximize the Secretary's market clout.

Directs the Secretary to seek a Medicaid waiver from the U.S. Department of Health and Human Services to set up a

prescription drug discount program modeled after the highly successful "Healthy Maine" program.

The Fair Market Drug Pricing Act is based on a free market approach to pharmaceutical prices--states engage in voluntary negotiations with drug companies.

If the companies don't want to participate, they don't have to negotiate.

The Fair Market Drug Pricing Act doesn't cost taxpayers a dime.

On the contrary, it will save each state tens or hundreds of millions of dollars per year, depending on the size of the state's Medicaid budget.

Endnotes

¹ U.S. Department of Health and Human Services, "Prescription Drug Coverage, Spending, utilization and Prices," April 2000.

² Ibid.

³ U.S. Department of health and Human Services, "Prescription Drug Coverage, Spending, Utilization and Prices," April 2000, and see William von Oehsen, *Pharmaceutical Discounts Under Federal Law: State Program Opportunities*, 2001.

⁴ *PhRMA v. Walsh*, U.S. Supreme Court Docket No. 01-188, decided May 19, 2003."

"Thank you."

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

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

"Madame Speaker, may I enter written comments in support, and just a few brief comments. I thank the Chair of the Higher Education Committee for the eulogy, but frankly it was due to the efforts of many people in this Chamber. First and foremost, the Chairs, relevant Chairs of Consumer Protection and Commerce and Health, who supported this issue all the way. I thank my colleagues on the other side of the aisle, who in the past did not support it, but found something within them to support this issue.

"I also want to thank the Administration for coming around and realizing that this was an issue that affected well over 250,000 of our residents and needed to be addressed and saw fit to work with all of us and because of all of that, we have the bill before us today. It's a workable bill. It will lead to I think, a significant cost savings for the uninsured and the underinsured in our State. And I think all of you can take credit for it. Thank you very much, Madame Speaker."

Representative Takumi's written remarks are as follows:

"Every day, Americans risk their health when they have to choose between purchasing food or medicine for themselves and for their children. Senior citizens are especially vulnerable since many live on low, fixed incomes but purchase one-third of all prescriptions. We all know people who cannot afford the high cost of drugs and end up skipping doses, splitting pills, or doing without medicine altogether.

"It is estimated that 20 percent of Hawaii's population – or 230,000 residents – do not have drug coverage. Even those fortunate to have drug coverage often find themselves restricted to annual caps of \$1,500 or less. Many on such plans reach the

limit before the year is over and are then forced to pay the full retail price for their prescriptions.

"Seniors are especially hit hard. They average ten prescriptions per year (versus an average of three per year for those under 65). Given the lack of adequate drug coverage for seniors, increases in drug prices pose a serious health issue.

"During the 1990s, prescription drug prices increased 2.5 times faster than inflation. The average price of brand name drugs shot up dramatically from \$30.43 in 1991 to \$54.78 in 1999. The drug industry ranks consistently as the most profitable industry in the country. Just one drug company, Merck, made more pure profit than all of the airline companies on the Fortune 500 list.

"Pharmaceutical manufacturers often claim that their research and development costs a lot of money. They fail to mention that the major companies typically spend twice as much on marketing and promotion than on research and development.

"The drug companies also realize that they can charge what the market will bear in the U.S., something they cannot do in other industrialized nations. For example, your doctor may prescribe Zocor to treat high cholesterol. If you live in Canada, you pay \$43.97 for 60 tablets. At Longs Drugs, it costs \$120.95, a 275% difference.

"The Hawaii Rx Plus program will help those who need the help the most. Anyone whose income is less than 350% of the federal poverty level will qualify. For a family of four, it would be \$74,500; for single person, \$36,000. They would fill out a simple form and would receive the Hawaii Rx Plus card at no charge. They would take the card along with their prescription to any participating pharmacy and would get a discount at the counter. Depending on the drug, the discount will range from 15 to 60 percent off the retail price.

"For example, if you take Lipitor for high cholesterol, it costs \$87.95 at Longs Drugs. In the first phase of Hawaii Rx Plus, it will cost you \$74.29, a savings of 15%. In the second phase of the program, there will be an additional 15-20% discount depending on the amount of the rebate from the drug company. For generics, the savings will be even greater.

"This program should have been implemented this year but was delayed due to the Governor restricting the funding for the original Hawaii Rx program. We are pleased that the Governor has changed her mind and now supports our efforts to reduce the high cost of drugs for the uninsured.

"This is an issue that should not be partisan. After all, the high cost of drugs affects everyone. It's the right thing to do and it's about time we did something about it."

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

Representative Mindo's written remarks are as follows:

"Madam Speaker, I rise in strong support of House Bill 2005, House Draft 1, House Standing Committee Report 523-04;

"Madam Speaker and members of the House, the purpose of House Bill 2005, House Draft 1, House Standing Committee Report 523-04 is to establish program goals, and adopt income and other eligibility requirements for the State discounted drug prescription program, hereafter to be referred to as the 'Rx Plus Program'.

"Additionally, H.B. 2005, HD 1, HSCR 523-04 seeks to create a preferred drug list and review by a committee comprised of pharmacists and others in the health profession.

"Finally, H.B. 2005, HD 1, HSCR 523-04 seeks to clarify the consequences of manufacturer non-participation in this program. And, there will be established a fund for the implementation of the 'Rx Plus Program'.

"I urge my colleagues to vote in favor of House Bill 2005, House Draft 1, House Standing Committee Report 523-04."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2005, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PRESCRIPTION DRUGS," passed Third Reading by a vote of 49 ayes, with Representatives Schatz and Takamine being excused.

At 1:05 o'clock p.m., the Chair noted that H.B. No. 2005, HD 1 passed Third Reading.

STANDING COMMITTEE REPORTS

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 532-04), recommending that H.C.R. No. 13, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 13, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE ISSUANCE OF NON-EXCLUSIVE EASEMENT COVERING PORTION OF SUBMERGED LANDS AT KANEOHE, KOOLAPOKO, OAHU, HAWAII, FOR MAINTENANCE OF BREAKWATER PURPOSES," was referred to the Committee on Finance.

The Chair addressed the Members, stating:

"Members, please note the 48 hour notice for Standing Committee Reports Number 533-04 to 545-04 as listed on pages 3 to 5."

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 533-04) recommending that H.B. No. 1859, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 533-04 on H.B. No. 1859, HD 2 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 1859, HD 2, were made available to the members of the House.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 534-04) recommending that H.B. No. 2338, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 534-04 on H.B. No. 2338, HD 2 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2338, HD 2, were made available to the members of the House.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 535-04)

recommending that H.B. No. 2472, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 535-04 on H.B. No. 2472, HD 2 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2472, HD 2, were made available to the members of the House.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 536-04) recommending that H.B. No. 1892, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 536-04 on H.B. No. 1892, HD 1 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 1892, HD 1, were made available to the members of the House.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 537-04) recommending that H.B. No. 2385, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 537-04 on H.B. No. 2385, HD 1 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2385, HD 1, were made available to the members of the House.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 538-04) recommending that H.B. No. 2495, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 538-04 on H.B. No. 2495, HD 1 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2495, HD 1, were made available to the members of the House.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 539-04) recommending that H.B. No. 2375, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 539-04 on H.B. No. 2375, HD 1 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2375, HD 1, were made available to the members of the House.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 540-04) recommending that H.B. No. 1713, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 540-04 on H.B. No. 1713, HD 2 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 1713, HD 2, were made available to the members of the House.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 541-04) recommending that H.B. No. 2985, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 541-04 on H.B. No. 2985, HD 2 was deferred and in accordance with Article III, Section 15 of the Constitution of

the State of Hawaii, printed copies of H.B. No. 2985, HD 2, were made available to the members of the House.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 542-04) recommending that H.B. No. 2250, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 542-04 on H.B. No. 2250, HD 2 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2250, HD 2, were made available to the members of the House.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 543-04) recommending that H.B. No. 1770, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 543-04 on H.B. No. 1770, HD 1 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 1770, HD 1, were made available to the members of the House.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 544-04) recommending that H.B. No. 1901, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 544-04 on H.B. No. 1901, HD 1 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 1901, HD 1, were made available to the members of the House.

Representative Takumi, for the Committee on Education presented a report (Stand. Com. Rep. No. 545-04) recommending that H.B. No. 2871, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 545-04 on H.B. No. 2871, HD 2 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2871, HD 2, were made available to the members of the House.

Representative Takumi, for the Committee on Education presented a report (Stand. Com. Rep. No. 546-04) recommending that H.B. No. 1926, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1926, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was placed on the calendar for Third Reading with Representatives Schatz and Takamine being excused.

Representative Takumi, for the Committee on Education presented a report (Stand. Com. Rep. No. 547-04) recommending that H.B. No. 1925, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1925, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATIONAL ACCOUNTABILITY," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Schatz and Takamine being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 548-04) recommending that H.B. No. 2379, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2379, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TESTIMONY," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Schatz and Takamine being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 549-04) recommending that H.B. No. 2439, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2439, entitled: "A BILL FOR AN ACT RELATING TO CIVIL DEFENSE SIRENS," passed Third Reading by a vote of 49 ayes, with Representatives Schatz and Takamine being excused.

At 1:07 o'clock p.m., the Chair noted that H.B. No. 2439 passed Third Reading.

INTRODUCTION OF RESOLUTIONS

By unanimous consent, the following resolution (H.R. No. 29) and concurrent resolution (H.C.R. No. 47) were referred to Printing and further action was deferred:

H.R. No. 29, entitled: "HOUSE RESOLUTION ENCOURAGING THE UNITED STATES POSTAL SERVICE TO HOST THE FINAL CEREMONY MARKING THE RELEASE OF THE "SOUVENIR SHEET" OF ALL TWELVE CHINESE LUNAR NEW YEAR COMMEMORATIVE POSTAGE STAMPS IN HAWAII IN JANUARY 2005," was jointly offered by Representatives Takai, Chang, Ito, Hamakawa, Karamatsu, Saiki, Nishimoto, Abinsay, Caldwell, Mindo, Tamayo, Nakasone, Wakai, Magaoay, Herkes, B. Oshiro, Luke, Hale, Kanoho, Morita, Kaho'ohalahala, Sonson, Shimabukuro, Fox, Takumi, Ontai, Say, Stonebraker, Halford, Waters, Evans, Kahikina, Arakaki, Marumoto, Thielen, Finnegan, Pendleton, Moses, Jernigan, Blundell, Meyer, M. Oshiro and Hiraki.

H.C.R. No. 47, entitled: "HOUSE CONCURRENT RESOLUTION ENCOURAGING THE UNITED STATES POSTAL SERVICE TO HOST THE FINAL CEREMONY MARKING THE RELEASE OF THE "SOUVENIR SHEET" OF ALL TWELVE CHINESE LUNAR NEW YEAR COMMEMORATIVE POSTAGE STAMPS IN HAWAII IN JANUARY 2005," was jointly offered by Representatives Takai, Chang, Saiki, Karamatsu, Ching, Nishimoto, Nakasone, Abinsay, Caldwell, Mindo, Wakai, Magaoay, B. Oshiro, Tamayo, Luke, Lee, Hale, Kanoho, Ito, Herkes, Morita, Kaho'ohalahala, Sonson, Shimabukuro, Fox, Takumi, Ontai, Say, Stonebraker, Halford, Blundell, Waters, Evans, Kahikina, Arakaki, Marumoto, Finnegan, Pendleton, Thielen, Moses, Leong, Jernigan, Meyer, Kawakami, Hiraki, M. Oshiro.

ANNOUNCEMENTS

Representative Lee: "Madame Speaker, you may have noticed that our Majority Whip, Representative Brian Schatz is absent today. Well, he is absent for a good reason. He became the father of a 6 pound, 3 ounce baby boy at 10 a.m. today. I hope tomorrow he will be back to distribute the cigars."

LATE INTRODUCTION

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

Representative Pendleton introduced his neighbor and good friend, the Chairman of the Hawaii Republican Party, Mr. Brennon Morioka.

ADJOURNMENT

At 1:08 o'clock p.m. on motion by Representative Lee, seconded by Representative Meyer and carried, the House of Representatives adjourned until 12:00 o'clock noon tomorrow, Wednesday, March 3, 2004. (Representatives Chang, Schatz and Takamine were excused.)

TWENTY-EIGHTH DAY

Wednesday, March 03, 2004

The House of Representatives of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004, convened at 12:05 o'clock p.m., with the Speaker presiding.

The invocation was delivered by Representative Marilyn B. Lee, after which the Roll was called showing all members present with the exception of Representatives Chang, Halford, Hiraki, M. Oshiro, Schatz and Takamine, who were excused.

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

GOVERNOR'S MESSAGE

The following message from the Governor (Gov. Msg. No. 140) was received and announced by the Clerk and was placed on file:

Gov. Msg. No. 140, transmitting the Employees' Retirement System's Comprehensive Annual Financial Report for Fiscal Year Ended June 30, 2003, submitted by the Department of Budget and Finance.

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 43 through 44) were received and announced by the Clerk:

Sen. Com. No. 43, transmitting S.B. No. 3194, S.D. 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO THE RX PROGRAM," which passed Third Reading in the Senate on March 2, 2004.

Sen. Com. No. 44, transmitting S.B. No. 3237, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PRESCRIPTION DRUGS," which passed Third Reading in the Senate on March 2, 2004.

On motion by Representative Lee, seconded by Representative Meyer and carried, the following Senate bills passed First Reading by title and further action was deferred: (Representatives Chang, Hiraki, Hamakawa, M. Oshiro and Schatz were excused.)

S.B. No. 3194, SD 2 S.B. No. 3237, SD 1

DEPARTMENTAL COMMUNICATIONS

The following departmental communications (Dept. Com. Nos. 24 through 25) were received by the Clerk and were placed on file:

Dept. Com. No. 24, from Richard K. Perkins, Chair, Corrections Population Management Commission, transmitting the Corrections Population Management commission Annual Report for calendar year 2003, which includes the work of the Sentencing Simulation Model Project.

Dept. Com. No. 25, from Patricia Hamamoto, Superintendent, Department of Education, transmitting the Financial Report of the Department of Education for the period July, 1, 2002 to June 30, 2003.

INTRODUCTIONS

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

Representative Shimabukuro introduced student interns in her office: Ms. Melody Lopez, Ms. Colleen Miyashiro and Mr. Richard Sandoval from the Hawaii Pacific University School of Social Work; and political science student Ms. Ann Otteman from Leeward Community College.

Representative Arakaki introduced individuals with developmental disabilities and their families from Kauai, Maui and Hawaii participating in the Hawaii State Council on Developmental Disabilities 5th Annual "A Day at the Capitol".

Representative Arakaki also introduced the staff of the Hawaii State Council on Developmental Disabilities: Ms. Waynette Cabral, Executive Administrator; Mr. Joe Shacter, Planner; Ms. Rose Shin, Community and Legislative Liaison; and Program Specialists, Mr. Dennis Liphard, Kauai County; Ms. Mary Matsukawa, Maui County; and Mr. Howard Marks, Hawaii County.

Representative Finnegan introduced 7th and 8th grade students from St. Elizabeth's School in Aiea; their teachers, Mrs. Evelyn Nakamatsu and Mrs. Carolyn Dunn; and parent Mrs. Martin.

Representative Finnegan also introduced family members: Hawaii National Guard Staff Sgt. Albert Akiona, III; his wife, Mrs. Monica Akiona; son, Master Buddy Akiona; daughter, Miss Jessica Akiona, brother, Mr. Ethan Akiona; and his father, Mr. Albert Akiona II. They were accompanied by Representative Finnegan's husband, Mr. Peter Finnegan, Sgt. Akiona's cousin.

ORDER OF THE DAY

COMMITTEE ASSIGNMENTS

The following Senate bills were referred to committee by the Speaker:

<u>S.B. Nos.</u>	<u>Referred to:</u>
1491, SD1	Committee on Finance
2074, SD1	Committee on Judiciary
2139, SD1	Committee on Tourism and Culture, then to the Committee on Finance
2153, SD2	Committee on Finance
2372, SD1	Jointly to the Committee on Public Safety and Military Affairs and the Committee on Labor and Public Employment, then to the Committee on Finance
2444, SD1	Committee on Judiciary
2815	Committee on Agriculture

2827, Committee on Judiciary
SD1

2969, Committee on Water, Land Use and Hawaiian
SD1 Affairs, then jointly to the Committee on Labor and
Public Employment and the Committee on
Judiciary, then to the Committee on Finance

3068, Jointly to the Committee on Health and the
SD2 Committee on Human Services and Housing, then to
the Committee on Finance

3144, Committee on Judiciary
SD1

3233, Committee on Judiciary
SD1

3234, Committee on Finance
SD1

The following resolution (H.R. No. 29) and concurrent
resolution (H.C.R. No. 47) were referred to committee by the
Speaker:

H.R.
Nos. **Referred to:**

29 Committee on Tourism and Culture

H.C.R.
No. **Referred to:**

47 Committee on Tourism and Culture

COMMITTEE REASSIGNMENTS

The following concurrent resolution was re-referred to
committee by the Speaker:

H.C.R.
No. **Re-referred to:**

16 Committee on Health, then to the Committee on
Consumer Protection and Commerce, then to the
Committee on Finance

INTRODUCTION OF RESOLUTIONS (FLOOR PRESENTATIONS)

The following resolutions (H.R. Nos. 33 and 34) were
announced by the Clerk and the following action taken:

H.R. No. 33, entitled: "HOUSE RESOLUTION
RECOGNIZING THE CONTRIBUTIONS OF THE ALA
WAI WATERSHED KULEANA PROJECT
VOLUNTEERS," was offered by Representative Caldwell.

Representative Caldwell, moved that H.R. No. 33 be
adopted, seconded by Representative Morita.

Representative Caldwell introduced the following honorees
with Malama O Manoa's Kuleana Project who were seated on
the floor of the House:

Ms. Mandy Bowers of Mid-Pacific Institute, Kuleana Project
School/Community Liaison;

Ms. Naomi Ohta, Kuleana Project School Liaison
Coordinator;

Dr. Eric De Carlo of the University of Hawaii, Department of
Oceanography, Kuleana Project Technical Advisor;

Mr. Dan Dinell, Kuleana Project Assistant Coordinator; and

Ms. Helen Nakano, Kuleana Project Coordinator.

Representative Caldwell also introduced other members of
the Malama O Manoa's Kuleana Project who were seated in the
gallery: Mr. Jim Harwood, Mrs. Pat Harwood, Ms. Vi
Hironaka, Ms. Betty Ikeda, and Ms. Carol Iwamura.

The motion was put to vote by the Chair and carried, and
H.R. No. 33 was adopted with Representatives Hamakawa,
Hiraki, Nakasone, B. Oshiro, M. Oshiro, Schatz and Takamine
being excused.

H.R. No. 34, entitled: "HOUSE RESOLUTION
COMMENDING THE EFFORTS AND BRAVERY OF THE
HAWAII NATIONAL GUARD FOR THEIR PAST,
PRESENT, AND FUTURE SERVICE TO OUR STATE,
NATION, AND THE WORLD AS WE COMBAT THE
WAR ON TERRORISM," was jointly offered by
Representatives Takai and Tamayo.

Representative Takai, moved that H.R. No. 34 be adopted,
seconded by Representative Tamayo.

Representative Takai introduced the following honorees
seated on the floor of the House:

Brigadier General Vern Miyagi, representing Adjutant
General Robert Lee and the men and women of the Hawaii
National Guard;

Commander and First Sergeant of Company C, Captain
Joseph Laurel, and First Sergeant John Gollero, representing
the men and women of Company C 193rd Aviation (Heavy
Helicopters); and

Chief Warrant Officer 4 Chauncey Dixon, and Staff Sergeant
Gary Sarver, representing the Ohio Army National Guard.

Representative Takai also introduced Girl Scouts and their
chaperones from 16 troops from Waipahu, Mililani, Hickam,
Kapolei, Pearl Harbor, and Honolulu, who were here to present
the troops being deployed with boxes of Girl Scout cookies.

Representative Tamayo introduced men and women of the
Hawaii National Guard C Company 193rd Aviation who were
seated in the gallery.

Representative Tamayo also introduced 27 soldiers of C
Company 193rd Aviation Regiment from the Ohio Army
National Guard's 1-137th Aviation Battalion (Heavy
Helicopter), Company G, Detachment 1, stationed in North
Canton, Ohio, here to fill critical vacancies.

Representative Tamayo also recognized the men and women
of B Company with the 193rd, the forward element, who are
currently in Afghanistan, as well as the recently activated rear
echelon of B Company.

Representative Tamayo then recognized legislative staff
associated with the Hawaii National Guard:

Ret. Major General Eugene Imai of the Speaker's Office;

Col. Ken Takayama of the Legislative Reference Bureau;

Col. Lon Paresa, House Assistant Sergeant-at-Arms; and

Sgt. Brent Miyagi of the House Chief Clerk's Office, and son of General Miyagi.

Representative Takai then recognized the family and friends of the Hawaii National Guardsmen who were seated in the gallery, as well as Deputy Adjutant General Col. Gary Ishikawa; and Recruiter, Sgt. 1st Class, Aaron Pollick.

The motion was put to vote by the Chair and carried, and H.R. No. 34 was adopted with Representatives Hamakawa, Nakasone, M. Oshiro, Schatz and Takamine being excused.

At 12:47 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:18 o'clock p.m.

UNFINISHED BUSINESS

At this time, the Chair announced:

"Members right now we are on page 2, Unfinished Business. The three measures under Unfinished Business, House Bill Number 33, House Draft 2; House Bill 1895, House Draft 1; and House Bill 1897, House Draft 1 will be deferred one Legislative Day."

H.B. No. 33, HD 2:

By unanimous consent, H.B. No. 33, HD 2, was deferred one legislative day.

H.B. No. 1895, HD 1:

By unanimous consent, H.B. No. 1895, HD 1, was deferred one legislative day.

H.B. No. 1897, HD 1:

By unanimous consent, H.B. No. 1897, HD 1, was deferred one legislative day.

STANDING COMMITTEE REPORTS

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 550-04), recommending that H.C.R. No. 12, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 12, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE ISSUANCE OF NON-EXCLUSIVE EASEMENT COVERING PORTION OF SUBMERGED LANDS AT SPRECKELSVILLE, WAILUKU, MAUI, HAWAII, FOR MAINTENANCE OF ROCK GROIN PURPOSES," was referred to the Committee on Finance, with Representative Schatz being excused.

SUSPENSION OF RULES

On motion by Representative Lee, seconded by Representative Meyer and carried, the rules were suspended for the purpose of considering bills on Third Reading on the basis of a modified consent calendar. (Representative Schatz was excused.)

STANDING COMMITTEE REPORTS

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 551-04) recommending that H.B. No. 1856, HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1856, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 552-04) recommending that H.B. No. 1875, HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1875, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR TEXTBOOKS FOR PUBLIC SCHOOLS," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 553-04) recommending that H.B. No. 1907, HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1907, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TUITION ASSISTANCE," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 554-04) recommending that H.B. No. 1928, HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1928, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE HAWAII TEACHER STANDARDS BOARD," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 555-04) recommending that H.B. No. 2286, HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2286, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII COMMISSION FOR NATIONAL AND COMMUNITY SERVICE," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 556-04) recommending that H.B. No. 2293, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2293, entitled: "A BILL FOR AN ACT RELATING TO INTERSTATE ADULT OFFENDER SUPERVISION," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 557-04) recommending that H.B. No. 2295, HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2295, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIONS ON DELINQUENT COURT-ORDERED PAYMENTS," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 558-04) recommending that H.B. No. 2642, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2642, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 559-04) recommending that H.B. No. 2661, HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2661, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Mr. Speaker, on Stand. Com. Report 559, I would just like to register some reservations on that.

"In the Finance Committee, when DBEDT was testifying, they said they already have the ability to do this. To provide low cost loans to various stores that might be experiencing a drop off in business because of the deployment of troops. So it didn't sound like we really needed to pass another 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. 2661, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC DEVELOPMENT," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 560-04) recommending that H.B. No. 2292, HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2292, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Mr. Speaker, on 560 I wanted to express some reservations. This could have been handled in the general budget. It didn't have to be handled this way. Thank you."

The Chair responded, stating:

"Thank you. Your point is well taken."

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

"Mr. Speaker, on the 560. I'm sorry. The Judiciary needs computers but, and I am in opposition to this measure. Because I think it should be funded out of the general fund. I think they are still using Wang computers. 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. 2292, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FEES FOR ELECTRONIC FILING, SIGNING, SERVING, CERTIFICATION, AND VERIFICATION OF COURT DOCUMENTS," passed Third Reading by a vote of 45 ayes to 5 noes, with Representatives Blundell, Jernigan, Meyer, Moses and Thielen voting no, and Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 561-04) recommending that H.B. No. 2296, HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2296, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE USE OF CREDIT AND DEBIT CARDS," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 562-04) recommending that H.B. No. 2715, HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2715, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. I thought we were playing bingo here for a minute. Mr. Speaker, I'm rising with some real serious reservations about this supersedeas bond amount for the tobacco companies.

Thank you, Mr. Speaker. I know this bill increases the bond limit to \$100 million. The people that were thrilled about that are Phillip Morris, which I guess is now called Altria. But the people that opposed this ceiling and wanted it to be higher are the Coalition for a Tobacco Free Hawaii. I really hope that, I meant that the bill will go over, it will pass Third Reading today. And I'm going with reservations. If there is any reduction in that bond level when it comes back from the Senate, assuming it comes back, I could not support it. Thank you."

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

"I rise with reservations and I just have some of the same concerns as the Representative from Kailua. Thank you."

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

"Likewise, Mr. Speaker."

The Chair noted:

"So ordered. 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. 2715, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOBACCO SETTLEMENT," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Arakaki voting no, and Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 563-04) recommending that H.B. No. 2337, HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2337, HD 1, entitled: "A BILL FOR AN ACT RELATING TO NAME CHANGES," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 564-04) recommending that H.B. No. 2074, HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2074, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PENALTIES OF HEALTH, ENVIRONMENTAL, AND CULTURAL PRESERVATION LAWS," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Bukoski, Jernigan and Stonebraker voting no, and Representative Schatz being excused.

At 1:24 o'clock p.m., the Chair noted that H.B. Nos.: 1856, HD 1; 1875, HD 1; 1907, HD 1; 1928, HD 1; 2286, HD 1; 2293; 2295, HD 1; 2642; 2661, HD 1; 2292, HD 1; 2296, HD 1, 2715, HD 1; 2337, HD 1; and 2074, HD 1; passed Third Reading.

At this time, the Chair stated:

"Members at this time, if you would note that the 48-hour notice for Standing Committee Reports Numbers 565-04 to 585-04 as listed on pages 5 to 9. Okay, everyone got that? The 48 hour notice on Stand. Com. Report Number 565 to 585."

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 565-04) recommending that H.B. No. 2092, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 565-04 on H.B. No. 2092, HD 2 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2092, HD 2, were made available to the members of the House.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 566-04) recommending that H.B. No. 2093, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 566-04 on H.B. No. 2093, HD 1 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2093, HD 1, were made available to the members of the House.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep.

No. 567-04) recommending that H.B. No. 2981, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 567-04 on H.B. No. 2981, HD 1 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2981, HD 1, were made available to the members of the House.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 568-04) recommending that H.B. No. 2798, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 568-04 on H.B. No. 2798, HD 1 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2798, HD 1, were made available to the members of the House.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 569-04) recommending that H.B. No. 2547, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 569-04 on H.B. No. 2547, HD 2 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2547, HD 2, were made available to the members of the House.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 570-04) recommending that H.B. No. 1893, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 570-04 on H.B. No. 1893, HD 2 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 1893, HD 2, were made available to the members of the House.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 571-04) recommending that H.B. No. 1904, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 571-04 on H.B. No. 1904, HD 1 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 1904, HD 1, were made available to the members of the House.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 572-04) recommending that H.B. No. 2397, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 572-04 on H.B. No. 2397, HD 1 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2397, HD 1, were made available to the members of the House.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 573-04) recommending that H.B. No. 2803, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 573-04 on H.B. No. 2803, HD 1 was deferred and in accordance with Article III, Section 15 of the Constitution of

the State of Hawaii, printed copies of H.B. No. 2803, HD 1, were made available to the members of the House.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 574-04) recommending that H.B. No. 2493, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 574-04 on H.B. No. 2493, HD 1 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2493, HD 1, were made available to the members of the House.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 575-04) recommending that H.B. No. 2498, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 575-04 on H.B. No. 2498, HD 1 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2498, HD 1, were made available to the members of the House.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 576-04) recommending that H.B. No. 2341, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 576-04 on H.B. No. 2341, HD 1 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2341, HD 1, were made available to the members of the House.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 577-04) recommending that H.B. No. 2781, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 577-04 on H.B. No. 2781, HD 2 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2781, HD 2, were made available to the members of the House.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 578-04) recommending that H.B. No. 1929, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 578-04 on H.B. No. 1929, HD 1 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 1929, HD 1, were made available to the members of the House.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 579-04) recommending that H.B. No. 2009, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 579-04 on H.B. No. 2009, HD 1 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2009, HD 1, were made available to the members of the House.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 580-04)

recommending that H.B. No. 2314, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 580-04 on H.B. No. 2314, HD 2 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2314, HD 2, were made available to the members of the House.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 581-04) recommending that H.B. No. 2394, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 581-04 on H.B. No. 2394, HD 1 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2394, HD 1, were made available to the members of the House.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 582-04) recommending that H.B. No. 2523, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 582-04 on H.B. No. 2523, HD 1 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2523, HD 1, were made available to the members of the House.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 583-04) recommending that H.B. No. 1908, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 583-04 on H.B. No. 1908, HD 2 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 1908, HD 2, were made available to the members of the House.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 584-04) recommending that H.B. No. 2109, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 584-04 on H.B. No. 2109, HD 2 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2109, HD 2, were made available to the members of the House.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 585-04) recommending that H.B. No. 2840, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 585-04 on H.B. No. 2840, HD 1 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2840, HD 1, were made available to the members of the House.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 586-04) recommending that H.B. No. 1712, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee

was adopted and H.B. No. 1712, entitled: "A BILL FOR AN ACT RELATING TO WITHHOLDING TAX," passed Second Reading and was placed on the calendar for Third Reading, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 587-04) recommending that H.B. No. 2511, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2511, entitled: "A BILL FOR AN ACT RELATING TO INCOME TAX WITHHOLDING," passed Second Reading and was placed on the calendar for Third Reading, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 588-04) recommending that H.B. No. 1784, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1784, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INCOME TAX," passed Second Reading, and was placed on the calendar for Third Reading, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 589-04) recommending that H.B. No. 2596, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2596, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

Representative Fox rose and stated:

"On Stand. Com. 589, this looks to me to be an excellent proposal. This is the earned income tax credit proposed by Milton Friedman and endorsed strongly by President Ronald Reagan. I think it's a good idea that the head of the Economic Development Committee is moving this forward. Thank you."

Representative Luke rose, stating:

"Mr. Speaker, will the prior speaker state his position on the bill?"

The Chair responded, stating:

"In support, I believe. Right, Representative Fox?"

Representative Fox responded, stating:

"I did describe it as an excellent bill. Yes, in support."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2596, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Second Reading, and was placed on the calendar for Third Reading, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 590-04) recommending that H.B. No. 1944, as amended in HD 1, pass

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

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1944, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST INDUSTRIAL ENTERPRISES," passed Second Reading, and was placed on the calendar for Third Reading, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 591-04) recommending that H.B. No. 2057, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2057, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR HPOWER PLANT BOILER ADDITION," passed Second Reading, and was placed on the calendar for Third Reading, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 592-04) recommending that H.B. No. 2170, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2170, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS FOR REHABILITATION HOSPITAL OF THE PACIFIC," passed Second Reading, and was placed on the calendar for Third Reading, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 593-04) recommending that H.B. No. 2322, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2322, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST PROCESSING ENTERPRISES," passed Second Reading, and was placed on the calendar for Third Reading, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 594-04) recommending that H.B. No. 2739, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2739, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS BY THE HIGH TECHNOLOGY DEVELOPMENT CORPORATION," passed Second Reading, and was placed on the calendar for Third Reading, with Representative Schatz being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 595-04) recommending that H.B. No. 2773, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2773, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

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

Representative Bukoski 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. 2773, 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 Bukoski, Jernigan and Morita voting no, and with Representative Schatz being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 596-04) recommending that H.B. No. 2774, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2774, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

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

Representative Bukoski 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. 2774, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SUBDIVISIONS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Bukoski, Jernigan and Morita voting no, and with Representative Schatz being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 597-04) recommending that H.B. No. 2297, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2297, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GUARDIANSHIP AND PROTECTIVE PROCEEDINGS," passed Second Reading, and was placed on the calendar for Third Reading, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 598-04)

recommending that H.B. No. 2578, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2578, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST HONOLULU SEAWATER AIR CONDITIONING LLC PROJECTS ON THE ISLAND OF OAHU," passed Second Reading, and was placed on the calendar for Third Reading, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 599-04) recommending that H.B. No. 2584, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, 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 MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING COST ITEMS," passed Second Reading, and was placed on the calendar for Third Reading, with Representative Schatz being excused.

At this time, the Chair announced:

"Members, once again please note the 48 hour notice for Standing Committee Reports Numbers 600-04 to 608-04 as listed on pages 12 and 13."

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 600-04) recommending that H.B. No. 1747, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 600-04 on H.B. No. 1747, HD 2 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 1747, HD 2, were made available to the members of the House.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 601-04) recommending that H.B. No. 2849, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 601-04 on H.B. No. 2849, HD 1 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2849, HD 1, were made available to the members of the House.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 602-04) recommending that H.B. No. 2859, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 602-04 on H.B. No. 2859, HD 2 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2859, HD 2, were made available to the members of the House.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 603-04) recommending that H.B. No. 1756, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 603-04 on H.B. No. 1756, HD 2 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 1756, HD 2, were made available to the members of the House.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 604-04) recommending that H.B. No. 1778, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 604-04 on H.B. No. 1778, HD 2 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 1778, HD 2, were made available to the members of the House.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 605-04) recommending that H.B. No. 1860, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 605-04 on H.B. No. 1860, HD 1 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 1860, HD 1, were made available to the members of the House.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 606-04) recommending that H.B. No. 1793, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 606-04 on H.B. No. 1793, HD 2 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 1793, HD 2, were made available to the members of the House.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 607-04) recommending that H.B. No. 2528, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 607-04 on H.B. No. 2528, HD 2 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2528, HD 2, were made available to the members of the House.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 608-04) recommending that H.B. No. 1946, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 608-04 on H.B. No. 1946, HD 1 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 1946, HD 1, were made available to the members of the House.

THIRD READING

H.B. No. 1727, HD 1:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 1727, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE FRAUD," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

H.B. No. 1818, HD 1:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 1818, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE LANDLORD TENANT CODE," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

H.B. No. 1773, HD 1:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 1773, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GARNISHMENT," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

H.B. No. 2196, HD 1:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2196, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL TRESPASS," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

H.B. No. 1926:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 1926, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

At 1:28 o'clock p.m., the Chair noted that H.B. Nos. 1727, HD 1; 1818, HD 1; 1773, HD 1; 2196, HD 1; and 1926; passed Third Reading.

INTRODUCTION OF RESOLUTIONS

By unanimous consent, the following resolution (H.R. No. 32) and concurrent resolutions (H.C.R. Nos. 48 through 49) were referred to Printing and further action was deferred:

H.R. No. 32, entitled: "HOUSE RESOLUTION URGING THE STATE DEPARTMENTS AND AGENCIES TO IMPLEMENT THE PRECAUTIONARY PRINCIPLE POLICY FRAMEWORK ON ENVIRONMENTAL PROTECTION IN CONDUCTING THE STATE'S AFFAIRS," was jointly offered by Representatives Shimabukuro, Kahikina, Morita, Waters, Kaho'ohalahala, Schatz, Arakaki, Magaoay, Karamatsu, Chang, Takumi, Kanoho, Hiraki, Nakasone, Kawakami, Nishimoto and Herkes.

H.C.R. No. 48, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A STUDY OF THE FEASIBILITY OF INCREASING THE OPERATING BUDGET OF THE UNIVERSITY OF HAWAII AT HILO IN ORDER TO ESTABLISH THE UNIVERSITY AS A FULL-FLEDGED COMPREHENSIVE UNIVERSITY," was jointly offered by Representatives Chang, Hale, Ontai, Evans, Herkes, Wakai, Schatz, Saiki, Hamakawa, Takamine, Leong and Takumi.

H.C.R. No. 49, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE STATE DEPARTMENTS AND AGENCIES TO IMPLEMENT THE PRECAUTIONARY PRINCIPLE POLICY FRAMEWORK ON ENVIRONMENTAL PROTECTION IN CONDUCTING THE STATE'S AFFAIRS," was jointly offered by Representatives Shimabukuro, Kahikina, Morita, Waters, Kaho'ohalahala, Schatz, Arakaki, Magaoay, Karamatsu, Chang, Takumi, Kanoho, Hiraki, Nakasone, Kawakami, Nishimoto and Herkes.

ANNOUNCEMENTS

Representative Luke: "Mr. Speaker, on behalf of the girls in the House, I would like to thank Representative Kirk Caldwell for his very kind gift to all of us this morning. He's always very generous and very thoughtful."

Representative Hiraki, for the Committee on Consumer Protection and Commerce, requested a waiver of the 48-hour notice requirement to reconsider decision making on House Bill Number 2539, relating to hospitals, and the Chair "so ordered."

Representative Hiraki: "Members, we will be reconsidering decision making for the purposes for correcting a defect that we have with the substances bill that's inconsistent with the title. So we will take care of that immediately after session in room 325."

ADJOURNMENT

At 1:30 o'clock p.m. on motion by Representative Lee, seconded by Representative Meyer and carried, the House of Representatives adjourned until 12:00 o'clock noon tomorrow, Thursday, March 4, 2004. (Representative Schatz was excused.)

TWENTY-NINTH DAY

Thursday, March 04, 2004

The House of Representatives of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004, convened at 12:05 o'clock p.m., with the Speaker presiding.

The invocation was delivered in verse and song by Representative Bertha F.K. Leong and Ms. Nina Kealiwahamana Rapozo, after which the Roll was called showing all members present with the exception of Representatives Arakaki, Ching, Hale, Schatz and Souki, who were excused.

On motion by Representative Lee, seconded by Representative Meyer and carried, reading of the Journals was dispensed with and the Journals of the Fifteenth and Sixteenth Days were approved. (Representatives Hale, Schatz and Souki were excused.)

GOVERNOR'S MESSAGE

The following message from the Governor (Gov. Msg. No. 141) was received and announced by the Clerk and was placed on file:

Gov. Msg. No. 141, transmitting a report entitled, ACT 306/SHL 2001 Progress Report: Implementation of A.R.T.S. FIRST: Hawaii's Arts Education Strategic Plan – July 2, 2002 to June 30, 2003. The State Foundation on Culture and the Arts prepared the report on behalf of the ARTS FIRST Partners aka Hawaii Arts Education Partners.

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 45 through 50) were received and announced by the Clerk:

Sen. Com. No. 45, transmitting S.B. No. 2260, SD 1, entitled: "A BILL FOR AN ACT RELATING TO STANDARD NONFORFEITURE FOR INDIVIDUAL DEFERRED ANNUITIES," which passed Third Reading in the Senate on March 3, 2004.

Sen. Com. No. 46, transmitting S.B. No. 2892, entitled: "A BILL FOR AN ACT RELATING TO REAL ESTATE LICENSING," which passed Third Reading in the Senate on March 3, 2004.

Sen. Com. No. 47, transmitting S.B. No. 2893, entitled: "A BILL FOR AN ACT RELATING TO ABANDONED APPLICATIONS FOR PROFESSIONAL AND VOCATIONAL LICENSES," which passed Third Reading in the Senate on March 3, 2004.

Sen. Com. No. 48, transmitting S.B. No. 2898, entitled: "A BILL FOR AN ACT RELATING TO COSMETOLOGY LICENSE RESTORATION," which passed Third Reading in the Senate on March 3, 2004.

Sen. Com. No. 49, transmitting S.B. No. 2901, entitled: "A BILL FOR AN ACT RELATING TO THE LICENSING REQUIREMENTS FOR ELEVATOR MECHANICS," which passed Third Reading in the Senate on March 3, 2004.

Sen. Com. No. 50, transmitting S.B. No. 3204, entitled: "A BILL FOR AN ACT RELATING TO ACTIVITY

PROVIDERS AND ACTIVITY DESKS," which passed Third Reading in the Senate on March 3, 2004.

On motion by Representative Lee, seconded by Representative Meyer and carried, the following Senate bills passed First Reading by title and further action was deferred: (Representatives Hale, Schatz and Souki were excused.)

S.B. No. 2260, SD 1	S.B. No. 2898
S.B. No. 2892	S.B. No. 2901
S.B. No. 2893	S.B. No. 3204

INTRODUCTIONS

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

Representative Caldwell introduced second grade students from Punahou School along with their teacher, Ms. Estrel Lohmeier and parents: Ms. Tina Alsop, Ms. Anne Tome, and Ms. Vernetta Schaffer.

Representative Kahikina introduced Pastor and Mrs. George, Mr. and Mrs. Hong, Mr. John Rayford, and Mr. Joe Wigfall, who were seated in the gallery.

Representative Arakaki introduced his intern, Mr. Peter "Kaalo" Kamakawiwoale; his Office Manager, Mr. John Mizuno; and Legislative Aide, Mr. Ted Lubong.

ORDER OF THE DAY

COMMITTEE ASSIGNMENTS

The following resolution (H.R. No. 32) and concurrent resolutions (H.C.R. Nos. 48 and 49) were referred to committee by the Speaker:

<u>H.R.</u> <u>No.</u>	<u>Referred to:</u>
32	Committee on Energy and Environmental Protection, then to the Committee on Finance

<u>H.C.R.</u> <u>Nos.</u>	<u>Referred to:</u>
48	Committee on Higher Education, then to the Committee on Legislative Management, then to the Committee on Finance
49	Committee on Energy and Environmental Protection, then to the Committee on Finance

The following Senate bills were referred to committee by the Speaker:

<u>S.B.</u> <u>Nos.</u>	<u>Referred to:</u>
3194, SD 2	Jointly to the Committee on Health and the Committee on Consumer Protection and Commerce, then to the Committee on Finance
3237, SD 1	Jointly to the Committee on Health and the Committee on Consumer Protection and Commerce, then to the Committee on Finance

At 12:14 o'clock p.m., Representative Saiki requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:19 o'clock p.m.

UNFINISHED BUSINESS

The Chair addressed the Members, stating:

"Members, at this time we are on number 5 on the Order of the Day, Unfinished Business. Members, the first 3 measures under Unfinished Business, House Bills Number 33, House Draft 2, House Bill 1895, House Draft 1, and House Bill 1897, House Draft 1, will be deferred one Legislative Day."

H.B. No. 33, HD 2:

By unanimous consent, H.B. 33, HD 2, was deferred one legislative day.

H.B. No. 1895, HD 1:

By unanimous consent, H.B. 1895, HD 1, was deferred one legislative day.

H.B. No. 1897, HD 1:

By unanimous consent, H.B. 1897, HD 1, was deferred one legislative day.

Representative Stonebraker appealed the ruling of the Chair that H.B. 33, HD 2; H.B. 1895, HD 1; and H.B. 1897, HD 1; be deferred one legislative day.

Representative Stonebraker rose, stating:

"Mr. Speaker, I would like to appeal your ruling on deferring these measures. I believe the people of the Hawaii deserve to hear and have a vote on the education reform that's before us."

At 1:20 o'clock p.m., Representative Saiki requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:21 o'clock p.m.

The Chair addressed the Members, stating:

"An appeal has been requested by one of our colleagues on the floor of this House in regards to the Chair's decision to defer the three measures one legislative day.

"At this point on this particular appeal, there is a provision for a debate on the appeal and the Chair will allow any of you who want to debate the appeal to state your position at this time. So Representative Stonebraker."

Representative Stonebraker rose to speak in opposition to the ruling of the Chair, stating:

"Thank you, Mr. Speaker. I'm happy that the Chair has ruled that this is indeed a debatable point. These three measures have been the primary vehicles that we've been looking at for education reform in the State. The people of Hawaii deserve our decision, our debate, and our deliberation on these

measures. And yet this is either the fifth, or sixth or seventh day that we have deferred these measures.

"As you well know, the Minority, the Republican Caucus of this House has amendments ready to go to further discuss some of the Governor's plans and our plans for education reform. Everyday, yet however, we defer these measures further and further, deeper into the calendar. It is my request and desire that we take up these measures. The people of Hawaii deserve our deliberation and our decision on these measures. And they deserve to hear our debate. The people deserve to hear these measures and have them go forward or fail according to the vote of this House. And so for those reasons, I'm appealing your ruling to defer them one calendar day."

Representative Fox rose to speak in opposition to the ruling of the Chair, stating:

"Thank you very much, Mr. Speaker. I just want to express my concern that this is appealed because originally, we were given to understand that the reason the measures were deferred was that a certain someone ..."

Representative Souki rose to request a recess, stating:

"Mr. Speaker, recess please."

The Chair responded, stating:

"No. Representative Fox, you may proceed."

Representative Souki rose to a point of information, stating:

"Point of information, Mr. Speaker. Mr. Speaker, when there is a request for an appeal, the normal way to handle it is to ask them for a vote because what they are doing, they are appealing your decision. Then you would call a vote of the Majority here, aye or nay, as to the appeal. I don't think there should be a debate on this. I think, if there's an appeal, there should be a vote on it."

The Chair responded, stating:

"In the provisions of our rules, there is an allowance for the debate on the appeal. And that is why the Chair has allowed Representative Stonebraker and Representative Fox to debate the issue of the appeal. So you may proceed."

Representative Fox continued, stating:

"Thank you very much, Mr. Speaker. And I would refer the Speaker Emeritus to Section 63 of *Mason's*.

"My understanding on the issue was that we were waiting for the Chair of the Education Committee and the ranking Member of Education, the Representative from Mililani, to return from their trip to Edmonton, Canada. That made a lot of sense to me, that they should be present when the debate took place, but they've been back now for a week. So since the original conditions of the deferral have been met, why don't we proceed with the debate as you originally stated?"

"In fact, you actually said openly that we would have the debate as soon as the Chair of the Education Committee returned. He is here. You then said that he needed some time to prepare. I believe a week is sufficient time to prepare. Let's go ahead with this debate. Thank you very much, Mr. Speaker."

Representative Saiki rose in support of the ruling of the Chair, stating:

"Mr. Speaker, I rise in support of the Chair's ruling.

"I would like to note that under Rule 2 of the House Rules, the Speaker has the discretion to control the mode and order of business on the House floor, and therefore, deferrals are proper within the discretion of the Chair.

"Secondly, I would like to note that the three subject bills before us will be taken up once the education bills that are pending in the Finance Committee are decided upon by the Members of that Committee."

At this time, Representative Saiki called for the previous question.

The appeal of the ruling of the Chair was put to vote by the Chair, and upon a show of hands, the appeal was denied.

SUSPENSION OF RULES

On motion by Representative Lee, seconded by Representative Meyer and carried, the rules were suspended for the purpose of considering bills on Third Reading on the basis of a modified consent calendar.

UNFINISHED BUSINESS

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 533-04) recommending that H.B. No. 1859, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1859, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CHILD ABUSE," passed Third Reading by a vote of 51 ayes.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 534-04) recommending that H.B. No. 2338, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2338, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. I would like to support H.B. No. 2338, HD 2, Stand. Com. 534-04 with these reservations.

"If you recall, Mr. Speaker, this is to address the concerns of the Governor last year, regarding the broad restrictions that we have placed on the use of agricultural lands. We stated last Session that there cannot be any restrictions on the use of agricultural lands other than what's written in our Land Use Code.

"The attempt of H.B. No. 2338, HD 2 was supposed to address the issue where the State agricultural park or land owners like Bishop Estate would lease land to farmers. And the objection was, oh now, with this broad elimination of restrictions, all together, how can we ensure that a pig farmer will not open up next to the farmer that's taking care of rose bushes for instance. So in order to give control to the land owner to make sure that the leases will go to the farmers that will not conflict against the product that are growing, this amendment was offered.

"However, because of the wording of this particular HD 2 that is moving forward, where it now says that all leases are exempt from the law that we passed last Session, it will open the door to the same thing we were trying to prevent, which was the advancement of 'gentleman farms'. Gentleman farms were created when the big landowners put up these big mansions on top of agricultural land and say this is a farm. If you say that now, we are allowing leased properties or leased agricultural lands to be exempt from the law, but then we're actually saying that, well you can allow gentleman farms on leased agricultural lands. So because of these concerns, I am stating to this Body that unless this language is clarified to ensure that the only thing that we're doing is to have land owners be able to make sure that farmers will be able to farm next to one another, so that there will be no pig farmer next to a rose bush farmer, then I will have to say that on record, that I would have voted no.

"I think that this bill has a long way to go and it can be cured in the process because it does have a defective date. I hope that the Senate or the Conference Committee will take care of this problem. 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. 2338, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE EXEMPTION OF LEASES AND UTILITY AND ACCESS EASEMENTS," passed Third Reading by a vote of 51 ayes.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 535-04) recommending that H.B. No. 2472, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2472, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. I rise in opposition to House Bill 2472. Back in the year 2001, the then Governor signed into law Act 292. It created the syringe sale program. And this Act was set to sunset on July 1st of this year. The idea was that drug users are at risk because there's a potential of using dirty syringes. So of course the State decriminalized the sale of these needles to primarily the drug dealers. Otherwise you would get a prescription and you would get the syringe through your doctor or other sources for people that need it.

"I voted against that measure at the time primarily because what happens when you provide a program like this is the amount of needles that are sitting around in parks, at beaches or in parking lots goes up. And of course this is indeed what has happened and what will happen. Many Members of this House voted against this measure. And the arguments are primarily that this measure lacks the counseling features that the exchange program had, and it really hurt prosecutors' efforts by removing the syringes from drug paraphernalia.

"Now in another measure that we voted on in this House, Mr. Speaker, we're trying to get tough on drug paraphernalia. But this measure basically says you have free range to use syringes. You can purchase them. You can exchange them. Unless you lose them, then you can purchase more. So for this measure, I think that we need to be very careful because of the multiplying number of syringes and needles on the streets. So a no vote for me. Thank you."

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

"Thank you, Mr. Speaker. I would like to speak in strong support of the measure. Mr. Speaker, I think this is one of those measures where the Legislature in its wisdom decided to use a go-slow approach, and a demonstration approach to see if there would be any concerns about needle exchanges and sales. And in fact, it's proven to be very effective. And I think the State of Hawaii can be proud that.

"You know, we really have a good handle on the problems of HIV transmission. And we've been able to, I think not only prevent many cases but in the process, we've been able to educate many people especially the needle drug users. So I think all the fears that were raised when we first passed this measure have not materialized. And I think it's a good public health measure that we should all support.

"And again, this is an Administration measure so it is coming from the Department of Health. And the Governor supports this measure as well. So I hope all the Members will support this measure. Thank you."

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

"Thank you, Mr. Speaker. I'm in opposition. At the time where we're fighting a huge war on ice statewide, we're talking about limiting the sale or prohibiting the sale of ice pipes. And this bill, is allowing for the legal sale of syringes, and other types or more invasive use of drug use, of drug injection into your system. For those reasons, Mr. Speaker, I have to oppose this bill."

The Chair responded, stating:

"Thank you very much. Your point is well taken."

Representative Jernigan continued, stating:

"Mr. Speaker, I would also like the words from the Representative from Hawaii Kai entered into the Journal as my own," and the Chair "so ordered." (By reference only.)

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

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

"Mr. Speaker, again in strong support of this public health measure. I think the Governor's package was right in introducing this. And really, I think across the United States we have taken the lead in this effort to prevent hepatitis, HIV and a lot of other diseases that are borne by needles. Thank you."

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

"Yes, Mr. Speaker. I stand in strong support of this measure.

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2472, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE SALE OF STERILE SYRINGES FOR THE PREVENTION OF DISEASE," passed Third Reading by a vote of 47 ayes to 4 noes, with Representatives Jernigan, Ontai, Pendleton and Stonebraker voting no.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 536-04) recommending that H.B. No. 1892, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1892, HD 1, pass Third Reading, seconded by Representative Lee.

Representative Moses rose and stated:

"Thank you, Mr. Speaker. I rise in support. I do have a question and maybe somebody can clarify for me.

"I'm looking at the original purpose and it was to prohibit exclusion from athletics and any education or recreational programs or activities based on sexual orientation. That's fairly straightforward, Mr. Speaker. But the current purpose as I read it, it says it amends 302A-1001 to prohibit denial of admission, participation, and/or benefits of or discrimination in any educational or recreational program, extracurricular activity, student services or any other program or activity in public schools on the basis of race, religion, ancestry, national origin, disability, sex, or sexual orientation. It goes on to define sexual orientation.

"My concern, Mr. Speaker, as one who has disabilities and who has been in a wheelchair and on crutches and canes, if we exclude disability from being prohibited, that means anybody with any disability can demand to be on the football team or anything else in school. And I think what we're doing here is just opening ourselves up as the State, the DOE, up to tremendous lawsuits. Because how can you tell somebody in a wheelchair, 'I'm sorry you cannot be on the football team.' According to this bill you cannot. Thank you, Mr. Speaker."

The Chair then stated:

"Representative Moses. Madame Clerk, he stood in support of the measure with reservations. Representative Moses, at this time the Chair will call a recess to allow you to talk to the Chair of the Judiciary Committee to get your answer. Recess subject to the call of the Chair."

At 1:36 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 1:38 o'clock p.m.

The Chair then stated:

"Representative Moses, I hope your question in regards to the with reservations was answered by the Judiciary."

Representative Moses responded, stating:

"I believe so, Mr. Speaker. They say that it was already in the statute, and you know, you still have to try out for the sport. As long as there's something in there that allows you, basically you are discriminating. You're discriminating though, based on their ability. Not their physical characteristics. Thank you, Mr. Speaker."

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

"Mr. Speaker, I stand in support of 536-04, 1892, HD 1 with some reservations. My reservations, Mr. Speaker, are that I believe that the way this bill is written, it will open us up to litigation because it does create a form of entitlement. I hope that this language in the current bill, as it moves along, will be

clarified so it clearly does not subject a school or our government to litigation. Because I do believe that it does say that they are entitled to certain things. If they're entitled certain things, what is that? It's not really defined. With that, I'll stop right here. Thank you very much."

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

"Mr. Speaker, I'm voting no on this measure. The idea is or the purpose is that it would prohibit exclusion from athletics or any educational or recreational program or activity based on sexual orientation. As far as I understand it, the law as it stands right now includes the list that was of concern to the Representative from Kapolei. But actually, it now adds sexual orientation as a specific class and then it goes on to define sexual orientation. The idea that it prohibits exclusion based on this definition, it's not legal right now to exclude anybody based on this. So the reality is that this bill is unnecessary but what it does do is it carves out a niche for a new and special class based on sexual orientation.

"I'm sure that the kids on a basketball team, or the boys on a soccer team, or on a football team, would feel very uncomfortable in the showers if they have no right to discriminate or to take a shower with somebody that has a sexual desire for them, or not for them. What we do by this is we open a can of worms. And really I think it's an incremental step toward a larger agenda, one agenda that I cannot support, so I'm voting no. Thank you."

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

Representative Finnegan's written remarks are as follows:

"Mr. Speaker, I rise in opposition to S.C.R. 536-04, H.B. 1892, HD 1. This is a difficult vote for me, Mr. Speaker. On the one hand, I do believe it is time that we insert a general nondiscrimination policy into our public education statutes. Furthermore, I don't believe anyone deserves to be harassed because of their sexual orientation, real or perceived.

"However, Mr. Speaker, I am concerned about our elevating sexual orientation to the level of other protected categories such as race, religion, ancestry, national origin, or disability. In the Judiciary Committee there wasn't any testimony that reported witnessing or experiencing non-participation in activities due to sexual orientation-based discrimination. This leads me to believe that the main reason for this bill is to elevate sexual orientation into a protected category. The Department of Education has an existing policy of punishing harassment based on sexual orientation, and I think that is the way we should handle this issue. That no student should be harassed or bullied for his or her sexual orientation we can all agree. Where we cannot agree is whether or not sexual orientation should be treated as a protected category, and for that reason I oppose this measure.

"Thank you, Mr. Speaker."

Representative Ching 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. 1892, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 44 ayes to 7 noes, with Representatives Bukoski, Ching, Finnegan, Jernigan, Meyer, Ontai and Stonebraker voting no.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 537-04) recommending that H.B. No. 2385, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2385, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ACCESS TO VITAL STATISTICS RECORDS BY CHILD SUPPORT ENFORCEMENT AGENCIES," passed Third Reading by a vote of 51 ayes.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 538-04) recommending that H.B. No. 2495, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2495, HD 1, pass Third Reading, seconded by Representative Lee.

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

"In opposition. I spoke on the floor, I believe twice against this measure. I just wanted to verbally oppose it again.

"I have a big problem with federal agents flying around in helicopters shooting animals on government land and State land, along with the State officials doing the same. 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. 2495, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ANIMAL CONTROL FROM AIRCRAFT," passed Third Reading by a vote of 43 ayes to 8 noes, with Representatives Evans, Herkes, Ito, Jernigan, Kahikina, Meyer, Stonebraker and Tamayo voting no.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 539-04) recommending that H.B. No. 2375, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2375, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. I'm in opposition. And Mr. Speaker, I have no argument with the intent of the bill, but I think there are some unintended consequences. And if I may refer to the bill, Mr. Speaker, it says: 'A person commits the offense of felony disposal of solid waste if the person knowingly discards, disposes of, deposits, discharges or dumps waste. And that also includes green waste, in an area other than a permitted solid waste management system without the written approval of the Director'.

"Mr. Speaker, last Friday night there was a significant storm on the Big Island. And when I checked my yard on Saturday morning, it was blanketed with ohia branches. Not leaves, but branches. Now, I may have to ask for a ruling on a conflict because on Saturday, this coming Saturday, weather permitting, I am going to knowingly discard, dispose of, deposit, discharge and dump solid waste in an area other than a permitted solid waste management system without the written approval of the Director. I intend to do that. And I may be in conflict with this proposal.

"Now, I don't expect to rise to the offense's penalty because I don't think I've got 10 cubic yards, but then I go down to South Kona and the Mac Farms, they lost 2,500 macadamia nut trees. The neighboring farmer lost a thousand trees. I don't believe that they are going to take those 3,500 trees, 30 miles to a solid waste transfer station. Now they might chip them. If they do, that's going to be okay. But my feeling is that they are going to dispose of them on lands owned by Mac Farms in an area other than permitted for solid waste management. And I have a real problem with them being exposed to being charged with a felony.

"Now do you think that the Department of Health will be out there looking? No, but as long as this is the law, then a disgruntled employee or somebody who buys macadamia nuts or sells to them and doesn't get the price they want, or doesn't like the company, they can file a complaint. The Department of Health and then the AG is going to have to look at prosecuting. It's for that reason, these unintended consequences, that I have to vote no on this bill."

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

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

"Mr. Speaker, I'm rising in support but with some reservations. I noticed that this bill only punishes repeat offenders. I guess the biggest problem that I have with the bill is that I believe that the penalty provision is out of sync with the crime. It seems like a very heavy penalty.

"And also, I would like to see some provision where the offenders must pay for the clean up of their illegal dumping or at the very least have to do community service cleaning up this kind of stuff rather than a felony. Thank you, Mr. Speaker."

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

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

"Yes, Mr. Speaker. Unfortunately, I will be voting no on this measure. And I believe that the crime is not commensurate with the sentence, with a Class C felony. I think we're doing too much of that this year, even in past years. If we want to do that, let's get on and build a prison real quick. We won't have space. In fact we don't have any space now.

"And plus Mr. Speaker, I want to insert the words of my good friend from Ka'u into the Journal. And I hope he doesn't go to jail. Thank you very much," and the Chair "so ordered." (By reference only.)

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

"Thank you, Mr. Speaker. I'm rising in support. Our natural resources are very limited here in the islands, and it's most important to protect them because violating our *a'ina* often has very deep, long-lasting and far-reaching negative effects. But I also believe that we should extend such stiff penalties to other offenses such as racing and activities that endanger other people's lives. Thank you."

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

"In opposition, Mr. Speaker. I am totally agreement with the speaker from Ka'u. I think this should be a county issue. And also I think the punishment doesn't fit the crime of a felony. This State, we seem to want to make everything a felony. I think it's way overboard. Punitive damages would be more appropriate. Thank you."

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

"I'm in support. I'm happy to support this Governor's package bill, Mr. Speaker. Although there are some problems with it, her heart is in the right place. Thank you."

Representative Karamatsu rose in opposition to the measure and asked that the remarks of Representatives Herkes, Souki and Meyer be entered in the Journal as his, 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. 2375, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SOLID WASTE CONTROL," passed Third Reading by a vote of 39 ayes to 12 noes, with Representatives Blundell, Chang, Herkes, Ito, Jernigan, Kahikina, Karamatsu, Leong, Magaoay, Ontai, Sonson and Souki voting no.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 540-04) recommending that H.B. No. 1713, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1713, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. I'm rising in opposition to this measure.

"While I don't sit on the Water and Land Use Committee, I'm not aware of any resource based concerns for Kahului Harbor that would necessitate a total ban. DLNR is already taking steps. They've been taking public testimony at public hearings on the problems with lay nets. And they are in the process of refining lay net regulations statewide. I don't believe that net fishers should be singled out. Native Hawaiians have a long tradition in net fishing, throw nets and lay nets. Thank you, Mr. Speaker."

Representative Kaho'ohalahala rose to speak in support of the measure with reservations, stating:

"Thank you, Mr. Speaker. I rise with reservations on this particular bill. I think Mr. Speaker, if I may, while the previous speaker makes references to native Hawaiians and their traditional fishing methods, I agree, on the Island of Maui, when this issue was brought to the community, it brought a lot of discussion on this issue. And I think what was most important in that discussion was the fact that the people of Maui were calling for their ability to be able to manage their ocean resources. Utilizing perhaps some of their traditional customary practices. Specifically the idea of *ahupuaa* and *konohiki*. And if these are the directions that they are moving then I would like to support them.

"So in the HD 2, there is a provision here that says that the effective date is July 2006. So hopefully within those next two years, the community of Maui will be able to discuss this. And

it is for this reason that I am going to vote with reservations. Thank you."

Representative Finnegan rose in support of the measure with reservations, and asked that the remarks of Representative Meyer 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. 1713, HD 2, entitled: "A BILL FOR AN ACT RELATING TO KAHULUI HARBOR," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Meyer and Thielen voting no.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 541-04) recommending that H.B. No. 2985, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2985, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. I'm rising to speak against Standing Committee Report 541 and the underlying bill, House Bill 2985.

"Thank you, Mr. Speaker. This bill will change the way the Land Use Commissioners are appointed to the Land Use Commission. It now will enable OHA to submit names to the Governor for nominees. It will allow the Speaker of the House of Representatives, you Mr. Speaker, to submit names of four members for the Governor to select two from those. And then it also does the same for the President of the Senate and the Minority Leaders of both Chambers.

"The problem with this bill, in addition to taking away traditional authority from the Office of the Governor—the problem with this bill is that it doesn't have the desired checks and balances of the present system. Under the present system, any Governor nominees to the Land Use Commission go through a Senate confirmation proceeding. That enables the public to come and to weigh in on whether or not those nominees should actually be approved by the Senate, confirmed by the Senate. I think that's a much better open government way. It's a way that we reach out to the people throughout this State to say, 'The Governor has nominated these people. What do you think? Should they serve on Land Use Commission?' This bill unfortunately does away with that and makes it an in-house, inside job. I don't like that.

"The other thing is that not having the review and consent requirement by the Senate itself, does away with that check and balance. And it leaves it just with an in-house, inside job. I think that this bill, it obviously is going to pass today otherwise it wouldn't be on the calendar. But I would hope that we would have second thoughts on this and encourage our counterparts in the Senate to just say no as this comes over. Thank you."

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

"Mr. Speaker, I rise in support of this measure. To begin with, I would like to correct the statement of the Representative from Aikahi. The statement was not correct because the existing language of the bill does reference that the individuals who are nominated for the Land Use Commission shall be

appointed pursuant to Section 26-34 of the Hawaii Revised Statutes.

"If you look at Section 26-34, that provision does provide for the advise and consent power of the Senate. Therefore those individuals who are nominated under this new procedure will still have to undergo confirmation by the State Senate. Thank you."

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

"Mr. Speaker. I rise in strong support. I think one of the main reasons that I support this bill is the current Governor has already indicated she doesn't believe that the Land Use Commission serves a valid purpose. She has actually publicly stated that she wants to abolish the Land Use Commission.

"Specifically in *Maui Tomorrow* she has been quoted as saying, she wanted to abolish the Land Use Commission. Similarly in the *Honolulu Star-Bulletin*, in an article dated October 16, 2003, she again reiterated her position that she wanted to abolish the Land Use Commission. So at this point considering that our House has already moved a House Bill 2800, which is a measure that will give significant power ..."

Representative Fox rose and asked:

"Will the Member yield to a question?"

At 1:55 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 1:56 o'clock p.m.

The Chair then stated:

"Representative Fox, the speaker has denied your request for a response. So the Chair recognizes Representative Blake Oshiro."

Representative B. Oshiro continued, stating:

"Thank you, Mr. Speaker. Just to continue. In House Bill 2800, at this point, the House looks like it wants to empower the Land Use Commission with the authority to oversee when we identify important agricultural lands, which has been a constitutional mandate for the last 25 to 30 years."

Representative Meyer rose to a point of inquiry and stated:

"Mr. Speaker, point of inquiry. Why is the speaker constantly talking about House Bill 2800? The bill we are on is HB 2985."

The Chair responded, stating:

"May I respond, Representative Meyer? The speaker is making reference to House Bill 2800 which deals with important agricultural lands tied to the operations and the petitions and the classifications of the Land Use Commission. And that is why he is making reference that. There is a need for the Land Use Commission, if this House is going to address House Bill 2800 relating to important agricultural lands."

Representative Meyer: "Mr. Speaker, I don't think we have a bill before us that is abolishing the Land Use Commission."

Speaker Say: "It is not. But in the open debate on the floor of the House it was stated that there may not be support of what the new composition of this Commission may look like."

Representative B. Oshiro continued, stating:

"Thank you, Mr. Speaker. I think it's for those reasons that we are trying to take a look at whether there are significant policy reasons for why we want to have a different selection process. I think it's for those reasons that we want to make sure that our Land Use Commission is performing its proper function in terms of overseeing State planning when it comes to the ideas of development and whether we want to turn our agricultural lands over into development and residential uses. And I think that's a very significant public purpose that this Commission serves. And thereby I think our input, the legislative input into that process is very significant.

"The Land Use Commission in the past has been known to be very slanted. The votes have tended to come down 8 to 1. And rarely if ever, does the Land Use Commission actually deny a rezoning request. And I think it's for those reasons that we're taking a look at the current Land Use selection process and raising some of those issues. And that's why I'm in strong support of this bill."

Representative Thielen rose to respond, stating:

"Thank you. Mr. Speaker, I would like to respond to the Majority Leader's comments of a few minutes ago. Thank you."

The Chair responded, stating:

"This is your second time. Please proceed."

Representative Thielen continued, stating:

"Thank you. I'm still opposed to the bill. Mr. Speaker, I don't read the plain language in the bill the same that way he does. Well, we're both attorneys and attorneys many times disagree. But I read it here that the Commission shall consist of nine members and shall be appointed in the following manner. Then it goes down to you, Mr. Speaker, submits some names, the President of the Senate submits some names, etc.

"Then the bill goes on, and serves for the term set forth in Section 26-34. Section 26-34 specifies the term. It does not specify that there will be Senate confirmation hearings. And I'm not alone in my interpretation of the bill. If the language is supposed to mean what the Majority Leader surmises, then the language of the bill has to be amended as it goes over to the Senate. The Office of Planning for the Department of Business, Economic Development and Tourism agrees with my interpretation of the bill. This is precisely the issue upon which they oppose the bill. So I think we again should rethink this. It's an inside job. It's not an open to the public with public input and then Senate confirmation. Thank you."

Representative Kaho'ohalahala rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. I rise in support. I would like to add if I may the words of the Majority Floor Leader and the Representative from Aiea as though they were my own."

Speaker Say: "Majority Leader."

Representative Kaho'ohalahala continued, stating:

"Majority Leader. And also the fact that I think the importance of this specific bill is that we are now going to allow the Office of Hawaiian Affairs to make an appointment to the Land Use Commission. I think the significance of this is that most of these issues that the Land Use Commission deals

with have areas that are significant to native Hawaiians. There may be burials. They may be features or sites that are surface or subsurface. And therefore, in the consideration of the Land Use Commission, finally, if it's an inside job, I'm glad that the Office of Hawaiian Affairs will have an opportunity to be inside in making these decisions. Thank you."

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

"Thank you, Mr. Speaker. I'm rising in opposition to this measure. I don't personally believe that this is an improvement on what we have now. With all these various people putting up names, I believe it's hard to ensure balance, flexibility, and equal representation on this Board. The current system seems to work well. This adds another wrinkle with OHA being able to provide 4 names and I don't know that that's an improvement. 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. 2985, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE LAND USE COMMISSION," passed Third Reading by a vote of 36 ayes to 15 noes, with Representatives Blundell, Bukoski, Ching, Finnegan, Fox, Halford, Jernigan, Leong, Marumoto, Meyer, Moses, Ontai, Pendleton, Stonebraker and Thielen voting no.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 542-04) recommending that H.B. No. 2250, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2250, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HABITUAL OPERATION OF A VEHICLE UNDER THE INFLUENCE OF AN INTOXICANT," passed Third Reading by a vote of 51 ayes.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 543-04) recommending that H.B. No. 1770, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1770, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES," passed Third Reading by a vote of 51 ayes.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 544-04) recommending that H.B. No. 1901, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1901, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. Mr. Speaker, I rise in opposition, as I'm sure you all know.

"I'm going to read some information from the Evan B. Donaldson Adoption Institute, established in 1996. The Evan B. Donaldson Adoption Institute has been a preeminent independent voice for improving adoption for everyone it touches, particularly children, through innovative programs, educational initiatives, research and analysis, and advocacy for

better practices, better policies, and better laws. And they have this very detailed report called, 'Unintended Consequences'.

"Safe haven laws are causing problems not solving them. In response to unsafe infant abandonment that place children at risk of harm or death, states in the last 3 years are now enacting safe haven laws which allow the legal, anonymous abandonment of newborns at designated sites. And because Legislatures have acted so quickly, usually in response to one or more well-publicized unsafe abandonment, they typically do not study the causes of abandonment before enacting these laws. Moreover since few states are collecting any data to evaluate the effectiveness of anonymous abandonment or trying to determine other alternatives that might be effective, there's no evidence demonstrating that these laws solve the very problems which they aiming at.

"In fact, even when they have this option, available information suggests that even with this option, girls and women continue to leave newborns in bathrooms, trash bins and parking lots. Experts question whether the people using these safe haven laws would otherwise have abandoned their babies unsafely. There are indications that these new laws lead to unintended consequences including encouraging women to conceal their pregnancies then abandon infants who otherwise would have been placed in adoptions through the established legal procedure or would have been raised by their biological parent or relatives -- I insert *hanai* there -- creating the opportunity for upset family members, disgruntled boyfriends, and others who have no legal rights to abandon babies without the birth mother's consent. The prosecutor brought out the idea that especially in our society, we have one of the highest rates of crystal meth. That would be a wonderful way to get back at your boyfriend or girlfriend. Drop off the baby.

"Inducing abandonment by women who otherwise would have not done so because it seems easier than receiving parenting counseling or making an adoption plan. It deprives biological fathers of their legal right to care for their sons or daughters, even if they have the desire and personal resources to do so.

"The last time I was in a Committee hearing, we have quite a problem with foster children. I wonder how this would affect the amount of foster children we have. Ensuring that children who are abandoned can never learn their genealogical or medical history, even when the consequences for their health are dire, precluding the possibility of personal contact or the exchange of medical information between birth parents and children in the future. You might be someone who might need somebody's help. A bone marrow transplant, something for that nature. Sending a signal, finally, especially to young people that they do not have to assume responsibility for their actions."

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

Representative Ching continued, stating:

"Thank you. That they do not have to assume responsibility for their actions and that deserting one's children is acceptable. So unfortunately, an attempt to address a critical and emotionally powerful issue quickly, public officials have conducted little research before legalizing abandonment. Neither federal or state governments have systematically tracked the number of infants abandoned in public places to determine the extent of the problem. They have not adequately considered the causes and what causes women to desert their children. So they're trying to fix a problem without understanding the causes. So just as federal and state policy makers have not recorded the number of infants left in public

places, most have not examined the causes of that abandonment in order to tailor an effective response.

"The premise of the safe haven law is that women who unsafely desert their newborns will not do so if they are promised anonymity and no criminal punishment. They won't do so. But there is no research to confirm this hypothesis. Indeed research shows that the affected population, especially teens experiencing unwanted pregnancy, are so distraught or in denial that they act in panic rather than the thoughtfulness that would be required to drop your child off at a hospital or a designated site.

"This lack of information coupled with the fact that dangerous abandonment continue at a steady rate undercuts the assumption that women who would otherwise unsafely desert their newborns the target of these laws are the ones who are actually using the law. So simply put, the people who we are aiming this law towards, they are not the ones using it. The ones using this law are going to be the girls who would most naturally come home, confess to their parents or arrange with their parents and have them kept in the family as we do in Hawaii.

"So lastly, because these laws are so typically drafted so quickly, they result in not only delayed adopted placements but the children spend more time in foster care. And if anyone's ever spoken with a child who spends time in foster care, it definitely is not the preferred way to be raised. I won't speak of the costs involved.

"But finally and most important, safe haven laws ignore the psychosocial importance to adopted people as children and later in life of the information about their origin, their ethnicity, their social backgrounds. The overwhelming majority of adoption practitioners and mental health professionals today including those who don't necessarily embrace the rapidly growing practice of open adoption agree of the benefits of having personal as well as medical information. Moreover ..."

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

Representative Ching continued, stating:

"Thank you. They maintain the lack of such information undermines adoptive families, especially the children in them. In fact, organizations of adults who are adopted including some who were abandoned as infants opposed legalized abandonment, opposed these safe haven laws, on this basis, as well as others. Some states in response to professional consensus and increased demands by those members of the adoption community have ended outmoded practices that foster secrecy and are providing adopted children with access to their biological family's information. In other words, the unambiguous trend in this nation in adoption is the opposite as the one promoted by anonymous abandonment.

"Ironically, a few days ago we honored the 'Go for Broke Foundation'. We honored the 442nd. And I understand there's an organization where you can be a member of the 442nd organization because your parent or grandparent was a member of the 442nd. And I said on the floor that we all derive strength from our heritage and that possibly this strength that we derive is the most powerful tool for positive change.

"The Adoption Circle of Hawaii most recently called me and they were very, very upset and regretted the fact that they missed the Judiciary hearing. I will tell you now the Adoption Circle of Hawaii does not want this bill to pass. And they have extended the invitation to every Member of this House to come to any of their meetings, they're held at the Epiphany Church in

Kaimuki, to listen to the testimony of adopted children and adopted parents on what they would give for one shred of information to find their biological parent or child. What they would do. And what this bill does is it deletes any chance ever of information. So I extend that invitation to everyone in this House.

"And I add to that, that this bill will not save a single life. There are better alternatives. There is a project called Project Cuddle. Project Cuddle is on the mainland and what it does is it's an alternative. It uses education and it approaches those women, girls who would be most likely to abandon their children through a toll-free number to help them and an ad campaign. This is a much more intelligent alternative. And I hope that we will find it in ourselves to not cause more problems that hurt people's lives. I would hope that we would look at the more reasonable approach of Project Cuddle. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I would like to speak in strong support of this measure, House Bill 1901. Thank you, Mr. Speaker. And although I sympathize with the previous speaker, the Representative from Liliha, I think the focus on adoptions is misplaced. You know, at the root of this bill is to save a life of a newly born infant. And it's truly a safety net measure that should not be used widespread. And she's right about that. But it is our hope that we provide this safe haven to a mother in distress.

"The fact is that the National Council for Adoptions strongly supports this. They believe that in effect, it actually promotes adoption for these abandoned infants. The fact that in a report from the U.S. Department of Health and Human Services, in 1998 they found 105 infants were found abandoned in public places. Unfortunately, 33 of them were dead. 161 of them were also found abandoned in 1999. And in 2000, 103 of them were dead.

"And it is all too often a tragedy that when babies are abandoned, they do end up either dead or seriously injured. And we don't know why mothers make that kind of decision. It's a real tragedy. So this is meant to provide the safety net. And I would really challenge the Representative from Liliha to show me where this bill precludes the sharing of information. Because part of it, part of this bill allows for the people in the hospitals, and hospitals after all are where babies are born, and police and fire departments. They're all sensitive to health need and to the needs of people. They're going to try and get as much information as they can from the mother. But that's not the focus. The focus first is making sure that the baby is safe. The baby is healthy. That's going to be their first concern. And that should be our concern too. And even if it only saves one baby, I think this measure would be worthwhile. I think it would be worth passing. And things like sharing of information, I think that should be encouraged. But the focus again, is let's save the life of an infant. Thank you."

Representative Ching rose to respond, stating:

"Thank you, Mr. Speaker. A brief rebuttal.

"In the Senate version, the fire department testified that they would not like to be one of the designated sites. One of the reasons is they feel they are middlemen. They would be having to drop off the baby at a hospital anyway. Which brings me to the point: practicality.

"Practicality. If you've ever stepped into a ER as I have in a hospital. The fire departments aren't going to. The bill does

not require information. It says if you can share. Share, what does that mean? What does that mean? If you're a busy nurse at an ER. I question how have we thought this out? I have actually spoken with the hospitals. I've spoken with the fire departments. I've spoken with the people, who we presume to improve their lives. Fire stations don't want this. The police departments don't want this. And hospitals can barely financially survive now. We're actually causing a problem that does not exist.

"The Department of Human Services reported zero, I repeat zero, cases of abandoned babies in the State of Hawaii. And so we are ruining lives at the chance to save one, which this bill does not save.

"There are two psychological profiles. And women who are interviewed, when they had abandoned in a trashcan, when they were interviewed said, when asked if you knew about a safe haven law to legally abandon your baby at a hospital instead, would you have done that instead of put your baby in a trashcan, the women said, 'No'. They said it would not have changed their actions at that time because they were panic stricken. It takes a certain psychological profile and a mode of thought to have the consideration to go and drive to a hospital or a police station. But most egregious of this bill is the lack of input from the adoption and the people adoption community and the people you purport to improve their lives. Thank you."

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

"Mr. Speaker, I'd like to speak in favor of the measure. Mr. Speaker, with all due respect to the Representative from Liliha, many states have passed this measure and I don't know if any that have actually gotten rid of the measure. Although there have been some questions about it in some states, the state of Texas has passed a measure. And as a matter of fact, former Governor George Bush signed the measure.

"The National Council for Adoption has taken a firm position on this measure. And so I think that is actually a group that really has been very active in the issue of safe havens.

"As far as genetic information. In the age of DNA testing, I think that years ago when we didn't have DNA testing, that was an issue but not genetic testing has been made a lot easier.

"I would like to enter the record and article that was written by Michelle Malkin in *Midweek Magazine*, which addresses this question if I may. Thank you."

Representative Lee submitted the following article:

Saviors and safe havens

Michelle Malkin
December 24, 2003

Bless all the dear children
In Thy tender care
And take us to heaven
To live with Thee there
-- Last verse, "Away in a Manger"

This is a Christmas message for every mother in crisis who has abandoned a baby -- a tiny bundle delivered in secret, stashed away in shame, and disposed of somewhere, anywhere, to survive or die alone.

This is for the mother of Baby Liberty, a newborn girl found alive wrapped in a white cloth at a construction site near Laytonsville, Md., on July 4.

And for the mother of Baby Tyler Doe, a newborn boy found alive in a cardboard box in the back of a car in Swansea, Mass., two days after Halloween.

And for the mother of Baby Catherine Hope, a newborn girl found dead in a plastic shopping bag on a Brooklyn church's porch the Sunday after Thanksgiving.

And for the mother of Baby Noel Christmas, a newborn girl found alive wrapped in a towel on a bench behind a hospital in Easton, Md., two weeks ago.

And for every mother-to-be who is thinking of doing something similarly unthinkable with their unborn sons and daughters.

As a mother who has just joyously brought a baby boy into the world, I cannot imagine your despair. I cannot fathom your horror. Those of us with healthy children, happy marriages and doting families often take for granted our bountiful blessings. It would be so easy to condemn you, to pontificate about your recklessness, to attack your selfishness, to mete out blame and shame. But not now.

During this Christmas season, in which we commemorate the birth of the Savior, please know that you are not alone. Whether you are 14 or 40, rich or poor, black or white, abused or confused, know that there are countless strangers across the country praying for you and the souls of your children.

Witness the outpouring of compassion when Baby Liberty was discovered lying in the grass, dehydrated and bug-bitten, but otherwise healthy. When the news broke, hundreds of people called offering to take her into their homes. Witness the outpouring of grief when Baby Catherine Hope was discovered on the doorsteps of the Resurrection and the Life Church. Some 200 mourners -- cops, congregants and strangers -- turned out for the newborn's funeral complete with honor guard and bagpipe marchers.

'Any one of us in this church -- or this entire neighborhood -- would have done anything to help that mother and child. People have to know this, that they're not alone, so this doesn't happen again,' parishioner Elizabeth Dodd told the New York Post.

You are not alone. That is also the message the Newborn Lifeline Network is trying to disseminate. The non-profit group operates a 24-hour, toll-free hotline (866-694-BABY) (866-694-2229) and a Web site at www.newbornlifeline.com 'to prevent newborn abandonment by providing one-stop assistance for birthmothers in crisis nationwide.' Volunteers have fielded more than 600 calls. They provide counseling and information about infant safe haven laws that allow parents to leave their babies in safe arms at hospitals, police stations and other designated areas without fear of prosecution.

The first such law was signed in 1999 by George W. Bush, then governor of Texas, after 13 babies were abandoned in the Houston area within a year. Once the law was advertised, four babies were turned over at safe havens in Harris County within 12 months. In Idaho, five babies have been left at safe havens since a similar law was passed in the summer of 2001. In New Jersey, 14 newborns have been left at police stations and emergency rooms since a safe haven law was passed three years ago.

Supporters of safe havens are asking public officials, private businesses and the media for more help in saving the lives of innocents by spreading word of the laws. What better time to do so than during the celebration of a sacred event, some 2,000

years ago, when a newborn babe found wintry refuge in a barn under the stars.

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1901, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD PROTECTION," passed Third Reading by a vote of 44 ayes to 7 noes, with Representatives Bukoski, Ching, Jernigan, Meyer, Moses, Ontai and Pendleton voting no.

Representative Takumi, for the Committee on Education presented a report (Stand. Com. Rep. No. 545-04) recommending that H.B. No. 2871, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2871, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TOBACCO," passed Third Reading by a vote of 51 ayes.

At 2:20 o'clock p.m., Representative Takai requested a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 2:20 o'clock p.m.

At 2:24 o'clock p.m., the Chair noted that H.B. Nos.: 1859, HD 2; 2338, HD 2; 2472, HD 2; 1892, HD 1; 2385, HD 1; 2495, HD 1; 2375, HD 1; 1713, HD 2; 2985, HD 2; 2250, HD 2; 1770, HD 1; 1901, HD 1; and 2871, HD 2; passed Third Reading.

STANDING COMMITTEE REPORTS

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 609-04), recommending that H.C.R. No. 10, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 10, entitled: "HOUSE CONCURRENT RESOLUTION SUBMITTING TO THE LEGISLATURE OF THE STATE OF HAWAII FOR REVIEW OF ACTION TAKEN BY THE BOARD OF LAND AND NATURAL RESOURCES ON LAND EXCHANGES," was referred to the Committee on Finance.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 610-04), recommending that H.C.R. No. 4, be referred to the Committee on Consumer Protection and Commerce.

Representative Saiki moved that the report of the Committee be adopted and that H.C.R. No. 4, be referred to the Committee on Consumer Protection and Commerce, seconded by Representative Lee.

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

"Mr. Speaker, I'd just like to register a with reservations on both Stand. Com Report 610 and 611. My only concern is that these additional mandates for insurance coverage could raise our premiums. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.C.R. No. 4, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO ASSESS THE SOCIAL

AND FINANCIAL EFFECTS OF REQUIRING HEALTH INSURERS TO OFFER COVERAGE FOR SMOKING CESSATION PROGRAMS," was referred to the Committee on Consumer Protection and Commerce.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 611-04), recommending that H.C.R. No. 5, be referred to the Committee on Consumer Protection and Commerce.

Representative Saiki moved that the report of the Committee be adopted and that H.C.R. No. 5, be referred to the Committee on Consumer Protection and Commerce, seconded by Representative Lee.

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

"Mr. Speaker, I'd just like to register a with reservations on both Stand. Com Report 610 and 611. My only concern is that these additional mandates for insurance coverage could raise our premiums. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.C.R. No. 5, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO ASSESS THE SOCIAL AND FINANCIAL EFFECTS OF REQUIRING HEALTH INSURERS TO OFFER COVERAGE FOR OBESITY REDUCTION PROGRAMS FOR CHILDREN AND ADOLESCENTS," was referred to the Committee on Consumer Protection and Commerce.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 612-04) recommending that H.B. No. 2516, HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2516, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAX WHOLESALE RATE," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 613-04) recommending that H.B. No. 2411, HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2411, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Kahikina voting no.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 614-04) recommending that H.B. No. 2137, HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2137, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. I'm rising in support of Standing Committee Report Number 614-04, House Bill 2137. I think it's a good idea. Right now it's being done by some of the bigger utilities. And they're footing the bill.

"The City and the County was opposed to this. That maybe can be worked out. But I see that it calls for the PUC to do these things. And yet there's no funding. And they indicated that they would need added personnel and funding to do it. So I think if we really want it done, we ought to pay for it. 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. 2137, HD 1, entitled: "A BILL FOR AN ACT RELATING TO A ONE CALL CENTER," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 615-04) recommending that H.B. No. 2784, HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2784, HD 1, pass Third Reading, seconded by Representative Lee.

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

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

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

Representative Karamatsu's written remarks are as follows:

"Mr. Speaker, I rise in support.

"House Bill 2784, House Draft 1 would amend the eligibility requirements for the State Enterprise Zone Program to allow more agricultural businesses the opportunity to participate. The bill extends the seven-year eligibility period by the number of months of the duration of a *force majeure* event to allow agricultural businesses to recover, and makes revenue growth criteria an option for agricultural businesses that cannot meet employment growth goals. This measure will help foster growth in Hawaii's agricultural industry. 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. 2784, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE ENTERPRISE ZONES," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 616-04) recommending that H.B. No. 2265, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2265, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Mr. Speaker, I rise in opposition. During Finance Committee hearings I asked questions of the Auditor. And that is the one in particular that I am opposed to. The other ones, I'm not commenting on their compensation. But this is a request for compensation.

"I asked for what is the average compensation for auditors in other states. And I wanted to know if they were elected auditors, appointed auditors, or auditors of individual departments or branches. I got no answers and therefore I

voted no in Committee. And I am forced to vote no again because the Auditor has to date, still not responded to my questions. Thank you."

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

"Thank you, Mr. Speaker. I rise in opposition to this measure. I have a real problem with voting on something that does not have an amount in it. I can't do that in my private life. I can't write a blank check in my business life. I can't write a blank check and yet this by me voting on this particular measure, it is paramount to me writing a blank check. So for those reasons I vote against this. Thank you, Mr. Speaker."

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

"Mr. Speaker. I rise to speak in support of the measure. Mr. Speaker, because the point was made on the House floor and I realize that at times, mail, when it arrives, does vary."

"I am in receipt of a memorandum to Representative Moses and Representative Meyer from the State Auditor, specifically responding to the request that was made during the public hearing. And the listing is attached to the memorandum indicating states where the selection of the auditor is in part by the Legislature, and states where it is by appointment of the Governor or some other body."

"By my count, if we were to try to place it in respect to where other states set the salary for their state auditors or comparable positions, that the State of Hawaii ranks, despite the nature of the work and the role that the Auditor has performed in our State, ranks about 37th. And the specific amounts are attached and provided in the memorandum. So perhaps it is in or on the way to the Representatives' offices. Thank you."

The Chair responded, stating:

"Thank you very much for clarifying it. Representative Meyer."

Representative Meyer rose, stating:

"Thank you, Mr. Speaker. My concerns are similar to the Representative from Lahaina. It's very uncomfortable voting on a blank amount. I'm happy to hear from the Chairman of Finance that we have gotten a response back from the Auditor. Of course this bill is not just about the Auditor's salary. It's also setting the range limits for salaries for not only the Auditor, but the First Assistant, First Deputy Auditor, LRB Director and his Assistant, Ombudsman and their Assistant. So we're talking about roughly 6 individuals."

"I am in receipt of a 2004 report of the Executive Salary Commission. Of course the Auditor is not under the Executive, but I think there will be a lot of interesting information there to see how they arrive at figures. Thank you, Mr. Speaker."

The Chair addressed Representative Meyer, stating:

"Representative Meyer, you are in opposition? Yes, in opposition, Madame Clerk."

Representative Bukoski rose to a point of information, stating:

"Just a point of information. I was wondering what that date on that memorandum was from the Auditor."

At 2:31 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 2:35 o'clock p.m.

Representative Bukoski rose, stating:

"Thank you, Mr. Speaker. I got the answer I was looking for. The date was March 4th. 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. 2265, entitled: "A BILL FOR AN ACT RELATING TO THE COMPENSATION OF OFFICIALS IN THE LEGISLATIVE SERVICE AGENCIES," passed Third Reading by a vote of 47 ayes to 4 noes, with Representatives Blundell, Meyer, Moses and Stonebraker voting no.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 617-04) recommending that H.B. No. 2414, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2414, entitled: "A BILL FOR AN ACT RELATING TO DENTAL INSURANCE," passed Third Reading by a vote of 51 ayes.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 618-04) recommending that H.B. No. 2048, HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2048, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. On 618 and 619, in strong support and may I please be able to insert comments in the Journal. Thank you. On both measures," and the Chair "so ordered."

Representative Thielen's written remarks are as follows:

"This bill facilitates the expansion of Hawaii's net metering program. Its passage is essential, as including government entities in the definition of "eligible customer generator" and increasing the allowable generation capacity from 10 to 50 kilowatts will result in the generation of more renewable energy by a greater number of producers."

"Including government entities in the definition of "eligible customer generators" will allow government to take a proper leadership role in renewable energy generation and consumption. Increasing the generation capacity from 10 to 50 kilowatts will encourage businesses to invest in larger energy systems, resulting in more renewable energy and a lower demand for fossil-fuel generated electricity."

"More renewable energy generated by more eligible customer generators will help wean Hawaii of our extreme dependence on economically volatile and environmentally destructive fossil fuels. Localizing energy generation will contribute significantly to Hawaii's economy, stemming the annual drain of \$2 to \$3 billion Hawaii spends each year to purchase fossil fuels from the mainland and abroad. It will also create good local jobs and investment opportunities."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2048, HD 1, entitled: "A BILL FOR AN ACT RELATING TO NET ENERGY METERING," passed Third Reading by a vote of 51 ayes.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 619-04) recommending that H.B. No. 2966, HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2966, HD 2, pass Third Reading, seconded by Representative Lee.

Representative Bukoski rose to disclose a possible conflict of interest, stating:

"Mr. Speaker, I want to disclose a possible conflict. I am a principal of a company that may benefit from this measure," and the Chair ruled, "no conflict."

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

"Thank you, Mr. Speaker. On 618 and 619, in strong support and may I please be able to insert comments in the Journal. Thank you. On both measures," and the Chair "so ordered."

Representative Thielen's written remarks are as follows:

"Allowing government agencies to engage in 'wheeling,' or transmitting non-utility generated electricity over public utility transmission lines to another location, is a crucial factor in the development of renewable energy generation and consumption in Hawai'i. Wheeling will permit government agencies to take the lead in the generation of renewable energy, by allowing these entities to develop efficient renewable energy systems. It will also permit government entities to take advantage of all the energy they produce. For example, a school will be able to transmit the electricity it generates on the weekend, when it is closed, to other government agencies in need of that energy.

"Wheeling will facilitate efficient renewable energy generation and consumption in Hawai'i, weaning us of our extreme dependence on imported fossil fuels. Government entities should lead Hawai'i's development of renewable energy generation and thereby to the localization of the energy industry. Localizing energy generation will contribute significantly to Hawai'i's economy, stemming the annual drain of \$2 to \$3 billion Hawai'i spends each year to purchase fossil fuels from the mainland and abroad. Localizing the energy industry will also create good local jobs and investment opportunities. It will also contribute to Hawai'i's efforts to become a research and development center for the emerging multi-billion dollar growth sector of renewables. Renewable energy generation will also contribute to the health and beauty of our environment, upon which our tourism industry, and therefore the bulk of our economy, depends."

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

"In opposition on 619-04, 2966, HD 2. I am voting no on this particular measure not because I don't believe that we should increase a renewable energy sources. But I just don't believe in 'no free lunch'. This is what wheeling is doing.

"If we truly believe and we truly support renewable energy production from our government agencies, let us fund these from the general fund. That way we know for sure we can audit. We can see with our own eyes with numbers that they

present to us that they are doing so efficiently. What this bill is doing is it is going to create a future. It's not needed right now but according to the testifiers, they may need this legislation in the future when they are going to put, 'they' meaning government agencies like I guess, Maui, City and County of Honolulu, they will need this legislation in order to produce energy from renewable source. And then be able to transport this energy from one building or from one agency to another agency somewhere in the jurisdiction.

"When I say there's no such thing as a free lunch, Mr. Speaker, it's that the transportation mode does not belong to the government agency or entity. It belongs to a private entity, Hawaiian Electric or Maui Electric or the other ones. If we impose on Hawaiian Electric, the duty to subsidize the efficient or inefficient activities, production activities of a government entity, we will essentially saying that they are better off. That we are going to prefer them over the consumers who will essentially be paying for this. There's no such thing as a free lunch. There is a cost to this transportation mode from this electricity or power being produced from one area to another area. And the testimony was that it will increase the cost on our consumers.

"Now like I said, Mr. Speaker, if we are going to subsidize this, let's do it properly. Because I want to know how efficient these government agencies are in producing renewable energy source. I do support the production of renewable energy. I just don't trust that it will be so transparent for us. I mean it will be. I just don't trust that the government is more efficient in using consumer's money. Thank you very much."

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

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

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

Representative Kahikina rose in support of the measure with reservations, and asked that the remarks of Representative Sonson 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 the report of the Committee was adopted and H.B. No. 2966, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ELECTRICITY," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Sonson voting no.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 620-04) recommending that H.B. No. 2969, HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2969, HD 1, pass Third Reading, seconded by Representative Lee.

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

"I would just like to enter my reservations on this particular measure. I believe, Mr. Speaker, that this is a homerule issue in a different way as we use the word homerule here.

"What we have is a bill that will actually tell a body which is the association who has authority to do things within the compounds of their jurisdiction, which is whoever bought into that I guess particular community, which has an association. By law, they are entitled to create or to file a bylaw, which governs the use of the properties especially the common elements.

"What we are doing with this bill is to mandate that they allow a particular homeowner to place a solar energy device on a common element. The testimony was, and the bill is not limited to, single-family homes. It includes town homes and other, I guess, arrangements, where you can have 4 or 5 different owners under one roof or more. But on 5 under one roof, and the roof is a common element, I think that as was testified to, the association has the authority to change the bylaws. And I think any particular homeowner that's affected by this and wishes to do this can actually go through the particular way of changing things.

"And two, again we are going to be changing an existing contract. When people buy into these homes that are covered by associations, they have to be informed of the certain bylaws and they sign off on that. They will comply. And some people in particular purchase homes because they want these particular rules to apply to every individual, I guess, to preserve the value of their homes as one incentive to do so. And I believe that each time we interfere with the freedom to contract, the State must share a particular compelling interest. If I guess placing solar energy device is a compelling interest that needs to be seen. With that, please record a vote with reservations for me. Thank you very much."

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

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

Representative Meyer rose in opposition to the measure and asked that the remarks of Representative Sonson 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. 2969, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SOLAR ENERGY DEVICES," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Ito, Jernigan and Meyer voting no.

At this time, the Chair addressed the Members, stating:

"Members, the Chair has been very lenient in allowing you to go back. And as we move forward, when I ask for any further discussion, I believe you should be aware that on behalf of this Body, we are taking a lot of time in regards to having your discussion. So please, as we move forward, if you would like to insert written comments in the Journal, please stand as we move along on our Stand. Com. Reports. So are we all complete, Members, on page 6?"

Representative Meyer rose to a point of inquiry, stating:

"Just a point of inquiry. These are Third Reading bills are they not?"

The Chair responded, stating:

"Yes, but we went through it and the Chair did request any discussion on Stand. Com. Report 618, 619, 620."

Representative Meyer: "Alright. I understood you to be implying that we shouldn't be speaking on them."

Speaker Say: "Well after the Chair has allowed you the discussion period, we should move on so that we could run the business of this House properly."

"Am I incorrect? Okay, if there's no further discussion on page 6.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 621-04) recommending that H.B. No. 2815, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2815, 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 but I do have some reservations. The 66 cents a month per cell phone seems high. All phones are not made the same. This is set up so that you will locate the phone. I have some concerns that some cell phones won't work. People will be forced..."

Representative Luke rose to a point of order, stating:

"Mr. Speaker, point of order. I think we're still on 621. So if I could clarify..."

The Chair responded, stating:

"Oh yes, 621. Excuse me, Representative Meyer."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2815, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 622-04) recommending that H.B. No. 2883, HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2883, 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'm sorry that I jumped the gun there.

"This is the bill on enhanced 911 services for mobile phones. And I'm in support, but with reservations. And as I said, I'm a little concerned about the 66 cents per cell phone, the cost of that per month, and whether people will be forced to buy new cell phones if their present phone is not set up with a location finder type device.

"This could be quite costly especially for businesses where they have perhaps have had their cars retrofitted to hold their phones and wired so that you can have hands off communication. And that cost roughly about \$450 to do that. And those setups cannot accommodate just any phone. So this

could have a sort of an unforeseen consequence of costing businesses a lot of money. Thank you, Mr. Speaker."

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

"On the same measure, Mr. Speaker, I rise in favor but would like to express a reservation. Essentially my reservations is very much similar to the previous speaker. I really support the enhanced 911, well I don't know what you call it. But anyway, and the GPS is a very new technology. It's a very attractive feature. But I was concerned about putting the 66 cents fee in statute.

"My understanding is that it can be lowered by a body or raised depending on how much the cost will be. But when I asked how this fee was determined, my understanding is that it was some sort of average derived over several places on the mainland that has this feature. I do hope that we can have a lower fee for our cell phone users. With so many cell phone users around, that will amount to maybe half million dollars a year. Thank you very much."

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

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

Representative Kaho'ohalahala 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. 2883, HD 2, entitled: "A BILL FOR AN ACT RELATING TO WIRELESS ENHANCED 911 SERVICE," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Jernigan voting no.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 623-04) recommending that H.B. No. 1885, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1885, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR A YOUTH SUMMIT," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 624-04) recommending that H.B. No. 2716, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2716, entitled: "A BILL FOR AN ACT RELATING TO THE SOUTH KONA WILDERNESS AREA," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Bukoski voting no.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 625-04) recommending that H.B. No. 2156, HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2156, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. I rise in opposition to this for the same reasons I had previously in opposition for writing a blank check. I strongly feel that we should not be writing blank checks. Thank you."

Representative Stonebraker rose, stating:

"Mr. Speaker, can I clarify what the previous speaker was speaking on?"

Speaker Say: "Stand. Com. Report 625, House Bill 2156, House Draft 1."

Representative Stonebraker: "I think he may like to correct that."

Representative Blundell: "Mr. Speaker, I'm sorry. I voted no on the wrong bill. I am in support of Stand. Com. Report 625-04. It's the next one that I'm not."

Speaker Say: "We're not there yet."

At 2:46 o'clock p.m., Representative Kahikina requested a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 2:47 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. 2156, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EARLY CHILDHOOD EDUCATION," passed Third Reading by a vote of 51 ayes.

At 2:49 o'clock p.m., the Chair noted that H.B. Nos.: 2516, HD 1; 2411, HD 1; 2137, HD 1; 2784, HD 1; 2265; 2414; 2048, HD 1; 2966, HD 2; 2969, HD 1; 2815; 2883, HD 2; 1885; 2716; and 2156, HD 1; passed Third Reading.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 626-04) recommending that H.B. No. 2580, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2580, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. I rise in opposition, for the same reasons as before. This does not have an amount in there. And I can't vote for something that doesn't have an amount. Thank you, Mr. Speaker."

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

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

"I would like to reservations on the same measure. And for the same reason, blank check."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2580, entitled: "A BILL FOR AN ACT RELATING TO STATE OFFICERS AND EMPLOYEES EXCLUDED FROM COLLECTIVE BARGAINING AND MAKING APPROPRIATIONS AND OTHER ADJUSTMENTS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Blundell and Meyer voting no.

The Chair addressed the Members, stating:

"The Chair will entertain the next two collective bargaining measures of Stand. Com. Reports 627 and 628; House Bill Nos. 2582 and 2583. Any further discussion on these two."

Representative Takamine, for the Committee on Finance presented two reports:

(Stand. Com. Rep. No. 627-04) recommending that H.B. No. 2582, pass Second Reading and be placed on the calendar for Third Reading.

(Stand. Com. Rep. No. 628-04) recommending that H.B. No. 2583, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the reports of the Committee be adopted, and that H.B. Nos. 2582; and 2583; pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

Representative Blundell rose to speak in opposition to both measure, stating:

"Thank you, Mr. Speaker. I rise in opposition to 627 and 628 for the same reasons: no amounts in them. Thank you"

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

"Mr. Speaker, if you'd register a no vote for me for the same reason. Thank you."

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

"Thank you, Mr. Speaker. And reservations on both for the same reasons."

The motion was put to vote by the Chair and carried, and the reports of the Committee were adopted and H.B. No. 2582, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING COST ITEMS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Blundell and Meyer voting no;

and

H.B. No. 2583, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING COST ITEMS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Blundell and Meyer voting no.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 629-04) recommending that H.B. No. 2446, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2446, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR COLLECTIVE BARGAINING INCREASES," passed Second Reading and was placed on the calendar for Third Reading.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 630-04) recommending that H.B. No. 2354, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2354, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO RISK MANAGEMENT," passed Second Reading and was placed on the calendar for Third Reading.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 631-04) recommending that H.B. No. 2747, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2747, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Second Reading and was placed on the calendar for Third Reading.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 632-04) recommending that H.B. No. 557, HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 557, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Second Reading and was placed on the calendar for Third Reading.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 633-04) recommending that H.B. No. 2463, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2463, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEES," passed Second Reading and was placed on the calendar for Third Reading.

THIRD READING

H.B. No. 1925, HD 1:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 1925, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATIONAL ACCOUNTABILITY," passed Third Reading by a vote of 51 ayes.

H.B. No. 2379, HD 1:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2379, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TESTIMONY," passed Third Reading by a vote of 51 ayes.

H.B. No. 1712:

Representative Saiki moved that H.B. No. 1712, pass Third Reading, seconded by Representative Lee.

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

"I believe this is the measure that, and I'm rising in opposition. If I am accurate, that this is the measure that would require small businesses to report twice a month rather than once a month. And for that reason ..."

The Chair interrupted, stating:

"Representative Stonebraker, on what measure are you on?"

Representative Stonebraker: "House Bill 1712."

At 2:52 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 2:55 o'clock p.m.

Representative Stonebraker, rose, stating:

"Thank you, Mr. Chair. I would like to retract any remarks that I made on House Bill 1712, Stand. Com. Report 586, and at this point, I will be in support."

The motion was put to vote by the Chair and carried and H.B. No. 1712, entitled: "A BILL FOR AN ACT RELATING TO WITHHOLDING TAX," passed Third Reading by a vote of 51 ayes.

H.B. No. 2511:

Representative Saiki moved that H.B. No. 2511, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. I rise to speak in favor of this measure. I had originally thought it was an onerous bill because this measure seemed to require some employers to file their withholding taxes twice a week rather than monthly. But after speaking to the Tax Foundation and to the Chair of the Finance Committee, I understand now that this is simply conforming to the federal practice and the federal law.

"Employers who pay taxes semi-weekly will now also do so on the State level. In other words, if some employers pay their withholding taxes electronically, they will now pay their State taxes probably by mail. But at some time or later they might also be able to do it via telephone. So insofar as this bill conforms with the federal tax law, I am in favor. Thank you very much."

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

"I am going to rise in opposition. I think the wording might be flawed in this bill.

"I would like a ruling also. I believe this will affect me," and the Chair ruled, "no conflict."

Representative Jernigan continued, stating:

"It says that the purpose of this Act is to conform the State withholding tax remittance date for employers with an annual State withholding tax liability exceeding \$40,000 to the remittance date required under the federal employment tax provisions. The State remittance date will change from monthly to semi-weekly.

"I think, I'm not sure that these numbers are correct. I think there might be a flaw in it. So that's why I'm going to oppose the bill today. We need to look at that. Thank you."

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

"Mr. Speaker, I'm voting no, on the strength that this lowers the threshold. Businesses that previously didn't have to do this are now going to. It used to be businesses with annual State withholding tax of \$100,000. Now we're bringing it down to businesses with State withholding for the year of \$40,000. And you know, I have not had an opportunity to talk to businesses but I feel like this might be a problem for many. So I will be voting no."

The motion was put to vote by the Chair and carried and H.B. No. 2511, entitled: "A BILL FOR AN ACT RELATING TO INCOME TAX WITHHOLDING," passed Third Reading by a vote of 45 ayes to 6 noes, with Representatives Blundell, Jernigan, Leong, Meyer, Stonebraker and Thielen voting no.

At 2:59 o'clock p.m., the Chair noted that H.B. Nos.: 1925, HD 1; 2379, HD 1; 1712; and 2511; passed Third Reading.

INTRODUCTION OF RESOLUTIONS

By unanimous consent, the following concurrent resolutions (H.C.R. Nos. 50 and 51) were referred to Printing and further action was deferred:

H.C.R. No. 50, entitled: "HOUSE CONCURRENT RESOLUTION DESIGNATING THE HAWAII CAPITAL CULTURAL DISTRICT AND ENCOURAGING THE MAXIMUM INVOLVEMENT AND SUPPORT OF ALL PUBLIC AND PRIVATE ORGANIZATIONS TO COLLABORATE WITH THE STATE FOUNDATION ON CULTURE AND THE ARTS TO SUSTAIN AND PROMOTE CULTURE AND THE ARTS IN HAWAII," was jointly offered by Representatives Chang, Evans, Shimabukuro, Mindo, Marumoto, Kahikina, Herkes, B. Oshiro, Wakai, Arakaki, Kawakami, Souki and Abinsay.

H.C.R. No. 51, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO ALLOW CERTAIN REMNANT LAND TO BE USED BY THE HOMELESS FOR AGRICULTURAL PURPOSES," was jointly offered by Representatives Arakaki, Shimabukuro, Kahikina, Abinsay, Kanoho, Morita, Kaho'ohalahala, Nishimoto, Magaoay, Mindo, Waters and Finnegan.

ANNOUNCEMENTS

Representative Hamakawa: "Mr. Speaker, I would like to request a waiver of the 48-hour rule in order to hear at the end of today's 2 o'clock agenda, House Bill 1980, Relating to the Family Court," and the Chair "so ordered."

Representative Takamine: "Thank you, Mr. Speaker, unfortunately this morning the Finance Committee was not able

to complete its public hearing and therefore, in order to come down to session, an announcement was made that the Committee would reconvene 15 minutes following adjournment of today's session. Therefore, the Finance Committee will reconvene at 3:15 to complete the Agenda No. 1 and then to go into the 11 o'clock agenda, which was Agenda No. 2.

"With that said, Mr. Speaker, at this point we would like to request a waiver of the 48-hour notice requirement for the purpose of hearing four bills. Those are H.B. No. 2186, HD 1, Relating to the Filipino Centennial Celebration Commission; H.B. No. 2455, Relating to Home and Community-based Services; H.B. No. 2667, HD 1, Relating to Hawaiian Language Medium Education; and H.B. No. 2976, Relating to the Weed and Seed Strategy," and the Chair "so ordered."

Representative Takamine: "Thank you very much, Mr. Speaker. These four bills will be heard by the House Finance Committee following Agenda No. 2 in Room 308, hopefully, approximately one hour from now."

Speaker Say: "Decision making to follow also."

Representative Takamine: "Decision making to follow, thank you."

"And Mr. Speaker, one further request. Requesting waiver of the 48-hour notice requirement for the purpose decision making on two measures previously heard. Those would include H.B. No. 1758, HD 1, Relating to Housing Projects; and H.B. No. 2459, Relating to Public Assistance," and the Chair "so ordered."

Representative Takamine: "Thank you very much, Mr. Speaker. Both of these measures will be added at the end of Agenda 3 before the House Finance Committee this afternoon."

Representative Hamakawa: "Mr. Speaker, similarly your House Committee on Judiciary will be reconvening back in the Auditorium 15-minutes after the adjournment of this session. We're still on Agenda 1, bill number 1. Thank you."

Representative Meyer: "Mr. Speaker, would the Finance Chair yield to a question?"

Speaker Say: "Chair Takamine, would you yield to a question?"

Representative Takamine: "No."

At 3:02 o'clock p.m., Representative Meyer requested a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 3:09 o'clock p.m.

Representative Arakaki: "Thank you, Mr. Speaker. Just a minor correction on the Addendum to the Order of the Day. On page C, your Committee on Health is not meeting with itself but it's actually supposed to reflect the Joint House and Senate informational briefing starting at 10 o'clock. And I would like to invite all the Members to attend. It is a briefing on sexually transmitted disease because we did receive a report about there's an increase in the incidences. And we would like to be more proactive on this measure. And we are hearing one measure before that, a resolution. Thank you, Mr. Speaker."

Representative Lee: "Mr. Speaker, I'd just like to welcome back Representative Brian Schatz. And we're glad to hear that his new son, Tyler is doing well. One thing though, I would like to remind him that we're still waiting for the cigars. Thank you."

Representative Thielen: "Mr. Speaker. Thank you. I want to congratulate him also. But I'm sure that he won't bring cigars because they're not healthy. And I imagine he will bring something that's much more in the spirit of the smoke-free building."

ADJOURNMENT

At 3:11 o'clock p.m. on motion by Representative Lee, seconded by Representative Meyer and carried, the House of Representatives adjourned until 3:00 o'clock p.m. tomorrow, Friday, March 5, 2004. (Representative Kanoho was excused.)

THIRTIETH DAY

Friday, March 05, 2004

The House of Representatives of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004, convened at 3:19 o'clock p.m., with the Vice Speaker presiding.

The invocation was delivered by Vice Speaker Sylvia J. Luke, after which the Roll was called showing all members present with the exception of Representatives Herkes, Ito, Kaho'ohalahala and Takumi, who were excused.

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

GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 142 through 144) were received and announced by the Clerk and were placed on file:

Gov. Msg. No. 142, transmitting the 2003 Report of the Commission to Promote Uniform Legislation of the Department of the Attorney General.

Gov. Msg. No. 143, transmitting the 2003 Annual Report prepared by the Natural Energy Laboratory of Hawaii Authority.

Gov. Msg. No. 144, transmitting the Department of Land and Natural Resources' annual report relating to Invasive Species.

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 51 through 60) were received and announced by the Clerk:

Sen. Com. No. 51, transmitting S.B. No. 2009, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUM PROPERTY REGIMES," which passed Third Reading in the Senate on March 4, 2004.

Sen. Com. No. 52, transmitting S.B. No. 2882, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ALIEN INSURERS," which passed Third Reading in the Senate on March 4, 2004.

Sen. Com. No. 53, transmitting S.B. No. 2896, entitled: "A BILL FOR AN ACT RELATING TO THE LICENSING REQUIREMENTS FOR PRIVATE DETECTIVES AND GUARDS," which passed Third Reading in the Senate on March 4, 2004.

Sen. Com. No. 54, transmitting S.B. No. 2951, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RADIOLOGIC TECHNOLOGY," which passed Third Reading in the Senate on March 4, 2004.

Sen. Com. No. 55, transmitting S.B. No. 3238, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," which passed Third Reading in the Senate on March 4, 2004.

Sen. Com. No. 56, transmitting S.B. No. 2678, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO A ONE CALL CENTER," which passed Third Reading in the Senate on March 5, 2004.

Sen. Com. No. 57, transmitting S.B. No. 2905, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL BOARD DISCIPLINARY ACTION," which passed Third Reading in the Senate on March 5, 2004.

Sen. Com. No. 58, transmitting S.B. No. 3031, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM COMMERCIAL CODE," which passed Third Reading in the Senate on March 5, 2004.

Sen. Com. No. 59, transmitting S.C.R. No. 19, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO CONDUCT A FEASIBILITY STUDY ON THE ESTABLISHMENT OF CENTRAL KITCHENS FOR THE DEPARTMENT OF EDUCATION," which was adopted by the Senate on March 5, 2004.

Sen. Com. No. 60, transmitting S.C.R. No. 20, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE UNIVERSITY OF HAWAII TO UPDATE THE 1994 DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES' MASTER BUILDING PLAN FOR THE COLLEGE OF EDUCATION," which was adopted by the Senate on March 5, 2004.

On motion by Representative Lee, seconded by Representative Meyer and carried, the following Senate bills passed First Reading by title and further action was deferred: (Representatives Herkes, Ito and Takumi were excused.)

S.B. No. 2009, SD 1	S.B. No. 2905
S.B. No. 2678, SD 1	S.B. No. 2951, SD 1
S.B. No. 2882, SD 1	S.B. No. 3031, SD 1
S.B. No. 2896	S.B. No. 3238, SD 2

DEPARTMENTAL COMMUNICATION

The following departmental communication (Dept. Com. No. 26) was received by the Clerk and was placed on file:

Dept. Com. No. 26, from David Shimabukuro, Administrator, Employees' Retirement System, transmitting their Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2003.

INTRODUCTIONS

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

Representative Say, on behalf of the House of Representatives, welcomed Mr. Roger Takabayashi, President; and Mr. Maurice Morita, Government Relations Specialist for the Hawaii State Teachers Association.

Representative Say also welcomed Mr. Walter Yoshimitsu with the Catholic Church, and Mr. Yoshimitsu's assistant.

Representative Finnegan introduced her legislative intern, Mr. Rafael Nacif of Hawaii Pacific University.

Representative Thielen introduced Mr. Henry Curtis and Ms. Kat Brady with Life of the Land.

Representative Thielen also introduced Mr. Dick Botti of Kailua.

Representative Halford introduced Mr. Dick Mayer, former professor at Maui Community College.

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>
2260, SD1	Committee on Consumer Protection and Commerce
2892	Committee on Consumer Protection and Commerce
2893	Committee on Consumer Protection and Commerce
2898	Committee on Consumer Protection and Commerce
2901	Committee on Consumer Protection and Commerce
3204	Committee on Consumer Protection and Commerce

The following concurrent resolution (H.C.R. No. 50) was referred to committee by the Speaker:

<u>H.C.R.</u> <u>No.</u>	<u>Referred to:</u>
50	Committee on Tourism and Culture

UNFINISHED BUSINESS

At this time, the Chair announced:

"Members, the first three measures under Unfinished Business will be deferred one legislative day.

H.B. No. 33, HD 2:

By unanimous consent, H.B. 33, HD 2, was deferred one legislative day.

H.B. No. 1895, HD 1:

By unanimous consent, H.B. 1895, HD 1, was deferred one legislative day.

H.B. No. 1897, HD 1:

By unanimous consent, H.B. 1897, HD 1, was deferred one legislative day.

Representative Stonebraker appealed the ruling of the Chair that H.B. 33, HD 2; H.B. 1895, HD 1; and H.B. 1897, HD 1; be deferred one legislative day.

At 3:26 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 3:29 o'clock p.m.

The Chair then stated:

"Members, we have had the same ruling challenged yesterday. Is there any new discussion on this?"

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

"Yes, my discussion is related to what I had to say yesterday, and yet it is new, somewhat. We do have esteemed members from the HSTA, the teachers' union with us today. I believe they are still there. Mr. Takabayashi was my shop teacher in

Representative Saiki rose to a point of order, stating:

"Madame Speaker, point of order. This is not germane to the request for an appeal."

Vice Speaker Luke stated:

"Please proceed, Representative Stonebraker."

Representative Stonebraker continued, stating:

"Thank you, Madame Speaker. The appeal against the ruling is based on the fact that I'm beginning to get the suspicion that the Majority Party is afraid to make a decision on education reform."

Representative Saiki rose to a point of order, stating:

"Madame Speaker, point of order. This goes to intent. It's not proper under the House Rules."

Vice Speaker Luke: "Representative Stonebraker, I will allow you to proceed."

Representative Stonebraker: "I was just stating my fears for the Majority Leader. My fear is that the Majority Party is afraid to make a decision on education."

Representative Schatz rose to a point of order, stating:

"Madame Speaker, point of order. The current speaker continues to be out of order in impugning the motives the Majority Party. Whether or not someone is afraid is not in order."

Vice Speaker Luke: "Representative Stonebraker, I was asking you whether if you have any new information."

Representative Stonebraker responded, stating:

"I would just like to make a correction to the previous speaker. By saying I was continuing to be in out of order meant that I was ruled out of order at one point. So that would be impossible to continue being out of order unless I was ruled out of order at one point.

"So Madame Speaker, we have passed these three measures two weeks ago. And they have come this Body, day after day. You know well that the Republican Party has amendments proposed and we would like to continue deliberating and debating. And I believe the people of Hawaii deserve a decision on these measures on education reform in general."

The Chair then stated:

"Thank you. Representative Takai and Representative Saiki, please have a seat. I have heard the appeal. Members, I think at this point, we're ready to vote. All those in favor of upholding the Chair's ruling, please raise your hand."

The appeal of the ruling of the Chair was put to vote by the Chair, and upon a show of hands, the appeal was denied.

The Chair then stated:

"Thank you. Representative Meyer, why don't we do the consent calendar motion and then we can call a recess."

SUSPENSION OF RULES

On motion by Representative Lee, seconded by Representative Meyer and carried, the rules were suspended for the purpose of considering bills on Third Reading on the basis of a modified consent calendar. (Representative Herkes was excused.)

At 3:32 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 3:55 o'clock p.m.

Representative Saiki rose, stating:

"Madame Speaker, I move for the adoption of Standing Committee Report Numbers 565-04 through 580-04 and 600-04 through 608-04, as listed on pages 2 through 7. And that the accompanying House Bills as amended pass third reading."

The Chair then stated:

"Representative Saiki, can you restate your motion. I believe you said 580-04, it's actually 585-04."

UNFINISHED BUSINESS

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 565-04) recommending that H.B. No. 2092, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2092, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MEDICINE AND SURGERY," passed Third Reading by a vote of 50 ayes, with Representative Herkes being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 566-04) recommending that H.B. No. 2093, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2093, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Madame Speaker, on page 2. On Standing Committee Report 566, House Bill 2093, I'm standing in strong support

and would like to have my written remarks in support of this measure entered in the Journal," and the Chair "so ordered."

Representative Arakaki's written remarks are as follows:

"My remarks are in support of HB 2093, HD 1, Relating to dental professional licensing. Changes made by HB 2093 were endorsed after many hours of work by the Hawaii Island Oral Health Task Force.

"Hawaii has some very significant oral health problems: our children have nearly three times the national average for baby bottle tooth decay; double the number of dental caries; 60% more decayed and filled teeth; and a greater proportion of unmet treatment needs. Over 270,000 Hawaii residents have no dental insurance while 80,000 MedQUEST insured adults have no basic dental benefits. More than 85,000 children have Med QUEST dental benefits, but find it difficult to find a dentist to serve them. The federal government has designated all of the islands of Hawaii, Maui, Molokai, and Kauai, as well as Kalihi-Palma in Honolulu, as dental health professional shortage areas.

"There is not one simple solution to our oral health needs but this measure identifies one that can help. Hawaii has a relatively good ratio of dentists to population overall, but there is a severe shortage of those who serve people with poverty, language, cultural, and geographic barriers. It is obvious that there are significant financial disincentives for dentists to do so. And Hawaii also has a chronic shortage of dental hygienists.

"Hawaii's community health centers serve people who are mostly below poverty, largely uninsured or covered by MedQUEST programs, live in geographically remote areas, and are linguistically and culturally isolated. Health centers provide a wide spectrum of necessary primary care services as well as managing and supporting the special access needs of their patients. They are now expected to expand their capacities to provide dental care for the underserved. Native Hawaiian Health Care Systems are also partners in creating access for dental care. Both the health centers and the Native Hawaiian Health Care Systems are sophisticated federally-funded entities, whose services are subject to substantial quality review and improvement policies and procedures. They are monitored regularly by their funding and insuring sponsors.

"The health centers and Systems are clearly the most appropriate source of oral health care for thousands of Hawaii residents, but they are hampered in expanding dental services by lack of funding and a shortage of dental professionals willing to work with them. This bill would be a great boon in addressing at least the latter. Under this bill, experienced public health minded dentists and hygienists from other states and territories could be attracted to serve these entities. Additionally, new but licensed dentists and hygienists who have services obligations under the Native Hawaiian Health Scholarship Program or National Health Services Corps would be available to the health centers and Systems.

"The costs of implementing this bill would be extremely modest while greatly contributing to the public good. HB 2093 is an excellent start to addressing Hawaii's oral health needs, and compliments need to go to the Hawaii Islands Dental Task Force for their perseverance and collaborative spirit."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2093, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DENTAL PROFESSIONAL LICENSING," passed Third Reading by a vote of 50 ayes, with Representative Herkes being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 567-04) recommending that H.B. No. 2981, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2981, HD 1, entitled: "A BILL FOR AN ACT RELATING TO NURSES," passed Third Reading by a vote of 50 ayes, with Representative Herkes being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 568-04) recommending that H.B. No. 2798, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2798, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you. Madame Speaker, I'm rising to speak against the pharmacist intranasal and oral delivery bill, at the top of the page.

"I just have brief remarks. A physician that was present at the hearing felt that we should examine this for this coming year, and just take a more cautious approach. I know the bill has an effective date that is delayed, but I would rather have us do the examination before we even have a bill. Thank you."

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

"I stand in support of the measure, Madame Speaker. The intranasal vaccines can come in as a very critical factor in the event that vaccinations run out. Currently pharmacists do provide vaccinations through injections. This is a new technology that provides the vaccination through an intranasal delivery system. It has been approved by the FDA. And if we give any credibility to the FDA approval process, we should support this measure.

"This could be a very critical and necessary tool that pharmacists and the public would need in the event that we had a crisis, a lack of vaccinations or something in that nature. I think that we should keep an open mind and embrace a new technology such as this. Thank you."

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

"Madame Speaker, in strong support. And I would like the words of the Speaker from Hawaii Kai put in the Journal as if my own," and the Chair "so ordered." (By reference only.)

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

"Same request, except this might be the first and last time I do this. Thank you." (By reference only.)

The Chair responded, stating:

"That may not be true."

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

"In that case, I also would like to have the comments of the Speaker from Hawaii Kai as if they were my own." (By reference only.)

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

"Thank you. I just rise in favor of this measure. I just wanted to mention to the Members, that if you remember, I think it was in December or January, this past December or January, that we had a shortage of flu vaccinations, flu shots. These were the shots given by actual shot injections. And in fact, if this measure would have passed, we would have been able to deploy the use of this intranasal flu vaccination. And we would have been able to address the shortage. So as we move into the next year of the flu season, let's hope that this measure passes so that pharmacist can use this new technology. Thank you."

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

"I'm standing in strong support of this measure. And I would like to thank the Representative from Hawaii Kai for really paying attention and looking at this from the health perspective. And I would like to have his words also as my own," and the Chair "so ordered." (By reference only.)

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

"Thank you, Madame Chair. Stand in strong support and the same request. Thank you," 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. 2798, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PRACTICE OF PHARMACY," passed Third Reading by a vote of 46 ayes to 4 noes, with Representatives Ching, Fox, Leong and Thielen voting no and Representative Herkes being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 569-04) recommending that H.B. No. 2547, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2547, HD 2, pass Third Reading, seconded by Representative Lee.

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

"I just wanted a ruling of a potential conflict on Standing Committee Report Number 569. My wife is an employee of the UH Foundation," 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. 2547, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 43 ayes to 7 noes, with Representatives Caldwell, Finnegan, Halford, Meyer, Moses, Stonebraker and Thielen voting no and Representative Herkes being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 570-04) recommending that H.B. No. 1893, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1893, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 50 ayes, with Representative Herkes being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 571-04) recommending that H.B. No. 1904, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1904, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 50 ayes, with Representative Herkes being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 572-04) recommending that H.B. No. 2397, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2397, HD 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR THE HAWAII STATE DISASTER REVOLVING LOAN FUND," passed Third Reading by a vote of 50 ayes, with Representative Herkes being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 573-04) recommending that H.B. No. 2803, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, 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 DRUG ENFORCEMENT," passed Third Reading by a vote of 50 ayes, with Representative Herkes being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 574-04) recommending that H.B. No. 2493, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2493, HD 1, entitled: "A BILL FOR AN ACT RELATING TO NATURAL RESOURCE VIOLATIONS," passed Third Reading by a vote of 50 ayes, with Representative Herkes being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 575-04) recommending that H.B. No. 2498, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2498, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INTERIM RULES OF THE DEPARTMENT OF LAND AND NATURAL RESOURCES,"

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

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 576-04) recommending that H.B. No. 2341, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2341, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE AGRIBUSINESS DEVELOPMENT CORPORATION," passed Third Reading by a vote of 50 ayes, with Representative Herkes being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 577-04) recommending that H.B. No. 2781, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2781, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INFORMATION PRACTICES," passed Third Reading by a vote of 50 ayes, with Representative Herkes being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 578-04) recommending that H.B. No. 1929, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1929, HD 1, pass Third Reading, seconded by Representative Lee.

Representative Schatz rose to declare a conflict of interest, stating:

"Madame Speaker, I would request to be recused from voting on Standing Committee Report 578-04, House Bill 1929, House Draft 1. My company has a contractual relationship with Hawaii 3R's," and the Chair "so ordered."

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

"Thank you, Madame Speaker. I'm rising to speak in strong support of the Hawaii 3R's program bill. It's Standing Committee Report 578.

"Thank you. Madame Speaker, this pulls together wonderful groups from our community to improve schools. I imagine a number of us have been fortunate enough to participate in the Hawaii 3R's program. I know that I have sanded defective paint off of walls for six hours at one project in a very sick room at a school in Kailua. The music room at Kailua Intermediate School. It's wonderful to see the Marines walk in with their sweat equity. They come in and they just take over and start demolishing termite-ridden cabinets, removing all of the defective materials, and work incredibly hard and incredibly well.

"The Hawaii 3R's program also has a marvelous person at DAGS. And he has made the process so user friendly that when school communities get together, go out and seek the matching funds from a benevolent non-profit, and then they are able to work through the process with the help of the DAGS personnel. It really is a wonderful, wonderful program. We're saving the taxpayers a lot of money. But more than that, we're in our public schools actually rolling up sleeves and doing the

work. I would encourage all Members to vote in support of this measure and also to get involved with the Hawaii 3R's program. Thank you."

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

Representative Magaoay's written remarks are as follows:

"Madame Speaker and Members of the House, I fully support HB 1929 relating to school repair and maintenance. Hawaii 3R's "repair, remodel and restore" is a non-profit organization that has saved the State over \$4,000,000 in maintenance cost for Hawaii's public schools. This program utilizes the labor of professional experts and volunteers to cut the cost of maintaining Hawaii Schools. Hawaii 3R's has also reduced the waiting time allotted to complete projects. In addition to this, the State also recognizes the need for a coordinator within DAGS to relay resources and information to the State. The public-private partnerships have contributed tremendously to the growth of this program and I stand in favor of this measure."

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

Representative Thielen's written remarks are as follows:

"I rise to speak in favor of HB 1929 HD 1, Standing Committee Report 578-04 - Relating to School Repair and Maintenance.

"The purpose of this bill is to fund the Hawaii 3R's Program, which addresses and expedites the backlog of school repair and maintenance.

"I learned firsthand last year the power and effectiveness of the Hawaii 3R's program.

"The music room at Kailua Intermediate School was in substandard condition. Peeling paint, chipped ceiling and wall tiles, termite-riddled cabinets, a faulty air conditioning system, and inadequate workspace contributed to an uninviting and unhealthy environment. Despite music instructor, Mike Lucich's arduous lobbying to address the many problems, the music room never made it onto the standard repair list.

"Today the new Melody Room is an attractive, inviting, healthy environment and provides a conducive environment in which students can learn.

"This transformation was made possible by the dedicated individuals at the Hawaii 3R's Program, who supported and steered us through the process to our successful dream. Ann-Maile Yamasaki, Executive Director at 3R's and Ryan Shigetani, Coordinator of 3R's at the Department of Accounting and General Services, fielded my many calls for help.

"A 3R's project requires active involvement from the school and community – both sweat and financial equity. We were fortunate to receive funding from the Harold K. L. Castle Foundation; Marines from the Marine Corps Base Hawaii, offered sweat equity on their personal time during the holidays; qualified construction angels – Paul Sheffield, Architect, Chris Emerson, Contractor, and Ainsley Ahlo, termite control – provided professional talents; and the enthusiasm, support and help from the KIS family of students, teachers, staff and PTSA ensured success. I rolled up my sleeves and joined my staff and sanded old paint off of the walls.

"It's exciting to watch a project succeed with the help of many hands and hearts. It's a wonderful example of government, community and private sectors working together toward a common goal of improving the school environment for the deserving children, who are our future. It's exciting to be a part of that. And the Hawaii 3R's Program provides an essential service to coordinate this effort."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1929, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL REPAIR AND MAINTENANCE," passed Third Reading by a vote of 49 ayes, with Representatives Herkes and Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 579-04) recommending that H.B. No. 2009, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, 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 MAKING AN APPROPRIATION FOR AGRICULTURAL RESEARCH AND MARKET DEVELOPMENT," passed Third Reading by a vote of 50 ayes, with Representative Herkes being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 580-04) recommending that H.B. No. 2314, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2314, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL IMPACT STATEMENTS," passed Third Reading by a vote of 50 ayes, with Representative Herkes being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 581-04) recommending that H.B. No. 2394, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2394, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE MAINTENANCE OF PROPERTIES WITHIN THE KALAELOA COMMUNITY DEVELOPMENT DISTRICT," passed Third Reading by a vote of 50 ayes, with Representative Herkes being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 582-04) recommending that H.B. No. 2523, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2523, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PASSENGER FACILITY CHARGES," passed Third Reading by a vote of 50 ayes, with Representative Herkes being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 583-04) recommending that H.B. No. 1908, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee

was adopted and H.B. No. 1908, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Fox, Meyer and Ontai voting no and Representative Herkes being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 584-04) recommending that H.B. No. 2109, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2109, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. I'm talking on 584-04, House Bill 2109, HD 2.

"I think that long-term care tax credits are very, very good idea but unfortunately, unlike the Administration's bill, this one gives credits, I think, in the reverse order. It gives \$2,500 or a percent. And the percent is bigger, the younger you are. I'm in support with reservations.

"Okay, it's you know, the younger you are, the more tax credits you get. And when you're young, you probably won't think of needing long-term care insurance so you probably won't buy it. As you get older and you start realizing, you may need it, you get a smaller amount of tax credit which is when you probably need it the most because you may be at the point earning less income. You might be on social security or whatever. So I just think it is a little bit reversed. Thank you."

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

"In support. I think it's more appropriate to have the credit larger when the people are younger to give them encouragement to invest in their future so we won't have to pay for them when they are older. Thank you."

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

"Thank you. I rise in support, and for those Members that may be wondering regarding the words of the Speaker from Kapolei, the net result would be because the payments for a long-term care insurance plan are a lot less for a younger person. The actual amount of a tax credit would be somewhat appropriate because it might be just about the same amount as a smaller percentage at a greater rate. And so the tax credit will probably be about the same amount.

"But as the previous speaker from Kona said, the reason is to encourage younger people to purchase long-term care insurance and for those reasons I support this measure. Thank you."

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

"Thank you, Madame Speaker. I guess I'm the exception, I will be voting no on this measure.

"The bill is inequitable because it treats taxpayers of different ages inequitably. The people that have the most urgent need to purchase long-term care insurance, i.e. the old, those who receive the least incentive.

"The bill is spatially discriminatory in that it restricts the proposed tax credit for long-term care to Hawaii residents. The equal protection clause prohibits discrimination against a non-resident based solely on residency. The Hawaii Supreme Court has recognized that the equal protection clause applies where a tax operates unequally on persons or property of the same class. Similarly under the privileges and immunities clause, a State may not impose higher taxes on a non-resident individual than it imposes on its own citizens.

"My biggest concern is that this bill appears to give a disincentive to older residents to purchase long-term care insurance. Those that need it the most. Thank you."

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

"Madame Speaker, I stand in strong support. I'd just like to clarify. The equal protection clause actually only protects people that are in a suspect class. Those people that are in a suspect class get what's called 'strict scrutiny'. And therefore they get a higher protection than the law. The government is free to make distinctions between age groups. We do that all the time when it comes to young people in driving, when it comes to older people in terms of making their eyes getting checked. And that's because there is a rational relationship between what the government is doing, that is not found unconstitutional. So just to correct the record, I don't think the Equal Protection Act applies, and neither does the Privileges and Immunities Clause. The government is free to tax its residents differently than it does from non-residents. Thank you."

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

"Thank you. Ruling on a potential conflict. My wife and I both have long-term care insurance policies."

The Chair then stated:

"No conflict. And let me just clarify. Anyone else who has a long-term care policy does not need to state your conflict. You have no conflict."

Representative Takai continued in support of the measure, stating:

"Well thank you, Madame Speaker. I would like to continue.

"Again, in strong support of this measure. I think that this is a measure that we should all take heed on. All of us should have long-term care policies. And in fact, as the speakers from Kona and Hawaii Kai have already said, it's important for us to encourage young people to get long-term care policies.

"For fact, people my age, I would encourage them to consider a 'ten pay' policy. And that is, if you pay for ten years, and it's costly but not as costly as waiting till you're 50. But if you pay for 10 years, that's it, you have this policy for life. And we need to encourage that. Because as you know and we all know, people that don't have long-term care policies and the odds are, that many of us will need it, long-term care, if we don't have the resources and money available to us, who pays? The State pays. The State, the federal government pays. We all pay. So this is a very good measure and I urge my colleagues to support it. Thank you."

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

"Thank you, Madame Speaker. In support with reservations.

"The point about buying long-term care insurance and how that helps the State is absolutely right. And the previous speaker has correctly highlighted that point. The more people who buy long-term care insurance, the lower the burden on the State at the end of the process when we have to pick people up through Medicaid. So therefore I don't understand why we wouldn't encourage people of all ages to buy long-term care policies. There is a logic to encouraging people to buy when they are young because the rates are lower. But studies have shown that you know, the insurance companies have this all figured out. If you're younger, you get a lower rate because you pay for a much longer time. If you come into the system later, you pay a higher rate because you're not going to pay for as long, until you collect on the policy. That can all be worked out. So I don't understand why there would be any difference on the tax credit from that point of view.

"It's equally important to the State to encourage somebody to buy a long-term care policy at whatever age they enter the market. And we ought to have a percentage credit for whatever stage you buy it at. If the credit is 50% and you pay 50% for forty years, you're still paying roughly the same amount of money as if you pay 50% at a much higher rate for 10 or 15 years. So I think there's a real flaw in the bill that stage. Thank you, Madame Speaker."

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

"Thank you, Madame Speaker. I would like to speak in strong support of this measure. And I would like to start by saying that I need to thank the Governor for pursuing this measure because we borrowed some of her ideas. We also took some ideas from the Representative from Maui, the Vice Chair of Labor and his ideas on long-term care tax credits. And also some ideas that we gleaned from last year's extensive discussion on the issue of long-term care.

"Basically, we are providing incentives to younger people because, it's an insurance principle that we're utilizing. The younger the person is, the less he pays. Although you know, he or she will be paying over a longer period of time. The impact on a person's income would be less. And therefore that's what we would like to encourage. And that's the reasoning for the higher tax credit.

"Also, we are establishing that this tax credit is for middle income and lower income people. Again, to help them out with the financial burden. And we found out that you really need to provide a substantial tax credit in order to make a difference. We are supporting that. We do want to encourage as many people to purchase long-term care insurance as possible. Again, the studies show that people usually wait until they're older, like me, before they start thinking about long-term care insurance. And by that time, it's usually too late. So again, there is a 'rhyme and reason' for all of this. And I hope that it will all work out in the wash later on. So I encourage everyone to support this measure. Thank you."

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

"Thank you, Madame Speaker. In strong support. I would like to ask that the words of the Chair of Health be inserted in the Journal as my own and also permission to insert written comments," and the Chair "so ordered." (By reference only.)

Representative Kahikina's written remarks are as follows:

"Purpose:

To provide a tax credit for long-term care insurance premiums, regardless of adjusted gross income.

To encourage residents to purchase long-term care insurance.

"Reasons for Support:

Allows for varied perspectives on the same matter

Covers DHS with regard to fair processing; shows they are considerate of their clientele.

"Amendments:

Inserted phased-in percentage tax credit based on adjusted gross income.

"Those Supporting:

American Council of Life Insurers

Hawai'i Long-Term Care Association

State Farm Mutual Automobile Insurance Company

Healthcare Association of Hawai'i

"Those Supporting Intent:

HAIFA Hawai'i

DOH

Executive Office on Aging"

Representative Meyer rose to respond, stating:

"Thank you, Madame Speaker. In the comments of the Chair of Higher Education. If it is possible, which I wasn't aware of, to buy a ten year policy, possibly all in one full swoop, he would have, you know, the maximum tax credit because that's a large amount of money. So he would be up at the very top so maybe he does have a conflict of interest."

The Chair responded, stating:

"No conflict."

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

"Madame Speaker, I just wanted to stand in strong support. And also I just happen to think that also it should be important for young people to buy long-term care insurance as well as older people because younger people also have debilitating accidents and events that are beyond their control. And so it's an insurance policy for the young and the old."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2109, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LONG-TERM CARE," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Meyer voting no and Representative Herkes being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 585-04) recommending that H.B. No. 2840, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2840, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. In support with just a comment on Standing Committee Report 585-04.

"This has to do with Kalaeloa Technical Park project feasibility appropriations. And I just think that the wording of the bill may be a little bit limited. That is my district and this is only looking at technical park projects. It could be many other projects that would help that area. Thank you."

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

"In opposition to that. I think it's a waste of money."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2840, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENHANCING ECONOMIC DIVERSITY," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Fox voting no and Representative Herkes being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 600-04) recommending that H.B. No. 1747, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1747, HD 2, entitled: "A BILL FOR AN ACT RELATING TO UNIVERSITY PROJECTS AND PURPOSES," passed Third Reading by a vote of 50 ayes, with Representative Herkes being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 601-04) recommending that H.B. No. 2849, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2849, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR ORGANIC AGRICULTURE," passed Third Reading by a vote of 50 ayes, with Representative Herkes being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 602-04) recommending that H.B. No. 2859, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2859, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Madame Speaker, I speak in strong support for Standing Committee Report Number 602-04, House Bill 2859, House Draft 2.

"I would like to inform my colleagues that when I went to Morocco this year, I met the Minister of Youth and Sports from Bulgaria, who came to that Youth Conference for the specific purpose of trying to convince some of the Moroccan officials, government officials to cooperate with her in establishing in Bulgaria a horse training and breeding facility to prepare horses for the Greek Olympics. That was my first exposure to the idea.

"My office manager owns a horse and has done a lot of education for me about the horse industry here in Hawaii. So we propose a new economic development project for the Island of Hawaii to be developed by this working group that we're asking the tourism agency to convene because I have learned

there are over 40,000 horses in Hawaii. And there's a tremendous historical and traditional interest in horse racing, rodeo. Ikua Purdy from the Island of Hawaii is now the cowboy recognized in the National Hall of Fame of Cowboys for his expertise back in the early part of last century in a rodeo.

"So I want to assure my colleagues that this has nothing to do with previous proposals that advocated horse racing and pari-mutuel gambling. It is not a gambling bill. And so for that reason, I hope that you will help us push this through the Legislature and hopefully we can develop a new industry for economic development that will benefit all of the islands. Thank you.

"May I have addition written comments on this bill," and the Chair "so ordered."

Representative Hale's written remarks are as follows:

"Hawaii's history of horses dates back to 1803 when Richard Cleveland brought the first horse to Hawaii Island and Maui. 100 years later Hawaii's *paniolo* Ikua Purdy surprised the western cowboys to become the world steer-roping champion in 1908. In 1988 Ikua Purdy became the first Hawaiian cowboy to be nominated to the National Cowboy Hall of Fame.

"Hawaii's equestrian world have seen an estimated 40,000 horses, an industry of horse breeding and sales, equine products and feed, livestock shipping veterinarian and medical care, boarding, horse trainers, lodging, stall fees, to list a few, which represents jobs.

"For those of us who is not familiar with equestrian events it is not just rodeo or horse racing, at the Olympic games there can be found competition in jumping, dressage, a discipline between horse and rider and not gambling. The passing of this House bill would facilitate introduction of new ideas to build up our State's economy by creating jobs not only on Oahu but the outer islands as well. Our State is always looking at alternatives to tourism, with the developing this Olympic quality facility we could be the gateway to and from the Far East, South America or even the Middle East. This is not hard to believe as the 2003 Pan-American Equestrian Games is hosted by the Dominican Republic and China in 2008. This is a good attempt to stimulate diversity to Hawaii's economy and promote family recreational activity."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2859, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE DEVELOPMENT OF AN INTERNATIONAL EQUESTRIAN FACILITY," passed Third Reading by a vote of 50 ayes, with Representative Herkes being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 603-04) recommending that H.B. No. 1756, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1756, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST HIGH TECHNOLOGY INDUSTRIAL ENTERPRISES," passed Third Reading by a vote of 50 ayes, with Representative Herkes being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 604-04) recommending that H.B. No. 1778, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1778, HD 2, entitled: "A BILL FOR AN ACT RELATING TO WAGES," passed Third Reading by a vote of 50 ayes, with Representative Herkes being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 605-04) recommending that H.B. No. 1860, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1860, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. In opposition to Stand. Com. 605.

"The Tax Department, you know, correctly points out the income tax form is not a place for doing your charity contributions. They're actually going to run out of space on their form if this idea keeps going. So let's just stop it. Thank you."

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

"Thank you, Madame Speaker. In strong support of the measure. Thank you. Although the previous speaker points out the concerns of the Tax Office, the reason for this measure is that it will help to fund some needed accounts under the Department of Human Services and Judiciary. In particular, the Hawaii Children Trust Fund, the Domestic Violence Prevention Special Fund and the Spouse and Child Abuse Special Accounts.

"Madame Speaker, just today, they had all these people from around the islands that was came in support of stomping out the ice epidemic. A lot of these problems stem from families needing services. And these services have been cut in years. And these services will decrease current national average rates of abuse for children by addressing concerns regarding the domestic violence, especially with regard to children, whom often are direct victims or otherwise suffer trauma from witnessing violence upon others.

"It will also allow citizens the opportunity to assume additional fiduciary responsibility for providing solutions if they so choose. It's about choice. It's about people's compassion. It's about aloha. Giving them a choice to step forward to help. It will also will fund family strengthening and other prevention programs, education and training and public awareness campaigns. I know that there is the marketplace of ideas. And this idea is something that I hope that our colleagues can support. Just for the mere reasons of the programs that has been said. Thank you, Madame Chair."

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

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

"Thank you, Madame Speaker. In strong support. I also would like to have the words of the Human Services and

Housing Chair as my own," and the Chair "so ordered." (By reference only.)

Representative Arakaki continued, stating:

"I just want to add that I'm sure the Minority Leader realizes that over the years, in fact it's been about 12 years, we've been cutting the budget for Health and Human Services. And I think everyone realizes the places that are cut are the prevention services. Those are the first to go.

"And you know, we always count on the faith communities and the charitable communities to come up with the shortfalls, that we're accountable for. But we know that prevention is the best strategy. To prevent child abuse is better than trying to treat a child for child abuse. To prevent domestic violence is better than trying to rehabilitate someone who's gone through that. This should be the number one priority. This should be the number one strategy. But because we are forced to fund treatment programs, rehabilitation programs, those are the ones we don't cut.

"So where do we get the funds for prevention programs? We're giving people that option. People who are getting their tax return. Maybe it's charity. To me it's a necessity. But at least we're giving people that choice. We're not forcing them to give their money. But we're giving them a choice and I think we're fortunate here in Hawaii that people do have big hearts. And when they see that option on their tax return, I think many of them are going to respond. And I think we're going to appreciate that. So I hope everyone can also appreciate that and support this measure. Thank you, Madame Speaker."

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. 1860, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD ABUSE AND NEGLECT," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Fox, Meyer and Ontai voting no and Representative Herkes being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 606-04) recommending that H.B. No. 1793, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1793, HD 2, pass Third Reading, seconded by Representative Lee.

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

"I just wanted to get a ruling on a possible conflict on Standing Committee Report Number 606-04, House Bill 1793, HD 2. My wife is a Vice Chair over at Bank of Hawaii, and as such, Hawaiian Trust falls under her jurisdiction. Hawaiian Trust is the lead trustee of the George Galbraith Trust of which that bill pertains to," 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. 1793, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LAND EXCHANGE," passed Third Reading by a vote of 48 ayes to 2 noes, with Representatives Bukoski and Jernigan voting no and Representative Herkes being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 607-04)

recommending that H.B. No. 2528, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2528, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CONSERVATION LAND," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Meyer voting no and Representative Herkes being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 608-04) recommending that H.B. No. 1946, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1946, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. In opposition to 608 Stand. Com. 608. I have a bit of nostalgia for the days when we used to as a Body, you know, exercise control over this process.

"This is the perfect example of how something can get completely out of hand. We've got two bills within four places of each other on the Order of the Day to have this check-off provision. There really is no end to this once we start down the road. The case to be made for dealing with child abuse and neglect is not the same case as beach restoration except that they're both good projects. The kind of things we would like to see supported. So why not another hundred charities. Let's get them on there too. Thank you, Madame Speaker."

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. 1946, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BEACH RESTORATION AND PROTECTION," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Fox, Meyer and Ontai voting no and Representative Herkes being excused.

At 4:28 o'clock p.m., the Chair noted that H.B. Nos.: 2092, HD 2; 2093, HD 1; 2981, HD 1; 2798, HD 1; 2547, HD 2; 1893, HD 2; 1904, HD 1; 2397, HD 1; 2803, HD 1; 2493, HD 1; 2498, HD 1; 2341, HD 1; 2781, HD 2; 1929, HD 1; 2009, HD 1; 2314, HD 2; 2394, HD 1; 2523, HD 1; 1908, HD 2; 2109, HD 2; 2840, HD 1; 1747, HD 2; 2849, HD 1; 2859, HD 2; 1756, HD 2; 1778, HD 2; 1860, HD 1; 1793, HD 2; 2528, HD 2; and 1946, HD 1; passed Third Reading.

STANDING COMMITTEE REPORTS

At this time, the Chair stated:

"Members, we will once again go by page. And let me remind the Members this is Second Reading. The same bills will be coming up for Third Reading on Tuesday. And because this is Second Reading, if you have opposition, you need to stand up state your opposition.

"And just a reminder to the Members that again, if you want to speak, then I'm not going to discourage you from speaking, but we will be having the same bills coming up on Tuesday, in the same exact order."

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 634-04) recommending that H.B. No. 1729, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, 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 CONDOMINIUM PROPERTY REGIMES," passed Second Reading, and was placed on the calendar for Third Reading, with Representative Herkes being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 635-04) recommending that H.B. No. 1762, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1762, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Second Reading, and was placed on the calendar for Third Reading, with Representative Herkes being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 636-04) recommending that H.B. No. 2974, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2974, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PEST CONTROL," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Herkes and Souki being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 637-04) recommending that H.B. No. 2143, HD 1, as amended in HD 2, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2143, HD 2, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"Madame Speaker, I would like to express reservations on Stand. Com. Report 637 on House Bill 2143, House Draft 2.

"This relates to gift certificates. I am voting in favor but I do have one reservation because the bill requires that gift certificates be valid for 7 long years. And also merchants are unable to charge a service fee. I believe that 7 years is an awful long time to keep a liability on one's books. And perhaps we might consider a shorter period. Maybe 3 to 5 years as this bill moves through the process. Thank you very much."

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

"On the same bill. For the same reasons, I'm going to vote no. Thank you."

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

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

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

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

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

"Thank you. I speak in favor of this measure. Thank you. Just briefly. I think this issue was brought up because, I don't know who introduced this, but I think this is a very good bill. This issue was brought up a few years ago because now many of the merchants have introduced gift cards. And in fact what they are, are Visa or Mastercard gift cards. If you don't use the gift card within a certain amount of time, Madame Speaker, the merchants are deducting from the value of the gift card, interest. And I just don't think that's the intent of the gift card.

"If I give you a gift card of a hundred bucks, it should be worth a hundred bucks, for as long as you hold it. So it updates the definition of gift certificate to include those. And I think many states across the nation are trying to address this as well. Because I think it is absolutely a rip-off for a merchant to sell a hundred dollar gift card and then to assess an interest on the gift card if someone doesn't use it within a certain time. 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. 2143, HD 2, entitled: "A BILL FOR AN ACT RELATING TO BUSINESS REGULATION," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Jernigan, Meyer, Ontai and Stonebraker voting no and with Representatives Herkes and Souki being excused.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 638-04) recommending that H.B. No. 2464, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2464, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEES," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Herkes and Souki being excused.

Representative M. Oshiro, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 639-04) recommending that H.B. No. 2740, as amended in HD

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

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2740, HD 1, entitled: "A BILL FOR AN ACT RELATING TO NOTIFICATION OF EMPLOYMENT CHANGES," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Herkes and Souki being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 640-04) recommending that H.B. No. 1840, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1840, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"On Stand. Com. 640, Bill 1840, in opposition. First, I'd like a ruling on a conflict please. I'm a farmer and also I own a farm processing plant. Both would create airborne particles," and the Chair ruled "no conflict."

Representative Jernigan continued in opposition, stating:

"Thank you. I'm in opposition of this bill. I think it's going to have an adverse impact on the farming community. When they till their lands or when their lands lay open, winds coming along and whipping up and creating particles in the air would have them in violation of this new law.

"Also for instance, macadamia nut processing facilities. They have waste piles outside their facilities and if the wind picks up, picks up the small particles and blows them. If it blows them past their property line, they are in violation of the law. There are already laws on the books with the Health Department in regards to fugitive dust emissions. And I think these are sufficient at this time. Thank you."

Representative Halford rose and asked that the Clerk record a no vote 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 Abinsay 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 Evans rose to speak in support of the measure, stating:

"Thank you, Madame Speaker. I rise in support of the bill. I believe there is some confusion on what the bill is trying to address, and I want to explain it to my colleagues.

"Currently, in the law it says the Department of Health can regulate fugitive dust. And so when we're talking about farming and agriculture, there's already a law that they can put together some rules on taking care of fugitive dust which is really particles that blow in the air that you can physically see. What this is trying to do is just to clarify that if there is fugitive

dust within a property lot line, that in fact the Department, if they so choose, may put together rules on regulating that.

"The reason this came about is because in a lot of industrial parks, what will happen is the property owner will lease out different spaces within that piece of property. And what this tries to address is that if one tenant is being disturbed by another tenant's actions, and there's actually fugitive dust coming in the air and impacting what's going in their space, that they can call the Department of Health and ask them to come out and look at the situation. And I think this clarity will make it real clear to Department of Health that they can go in and make some rules that might address that situation.

"Now it was said by some people that came and talked to me that they thought OSHA did this. And I want to clarify for people that OSHA does not address this situation. OSHA works with employer/employee relationships. And when it comes to fugitive dust for them, they actually have to, the lady said. They get calls all the time on trying to address the situation that I'm mentioning. And so they can't help people on that because it's only on an employer/employee relationship that they can address it. Thank you, Madame Speaker."

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

"Thank you, Madame Speaker. I'm standing with reservations at this point. I would like to talk with HARC. I know that they were opposed to the bill. And that's the Hawaii Agricultural Research Center. I'd like to find out whether they still oppose the bill on its present form and, if so, then I will be voting no on Third Reading. I would encourage those who support farming in our State to also consider the same. Thank you."

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

"Yes, Madame Speaker. I would want to vote with this with some reservations. And I will wait for more discussion with the author of the bill to see how I will vote on Third Reading. Thank you."

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

"Thank you, Madame Speaker. In opposition. While I have many areas in my district which are undergoing development right now, homebuilding and such, and there is fugitive dust emanating from them. And I myself suffered from fugitive dust about 20 years ago when they did a lot of work in the same area. I have called Department of Health and they have come out and they have done their air monitoring. And they tell me they can do all that now.

"But I also have many farmlands in my district, Aloun Farms, Larry Jeft's, etcetera, all along Kunia Road and in the Kapolei area also. And I think they would suffer immensely from this also. So I'm opposed to it for those reasons. And I believe Department of Health already can do this. Thank you."

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

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. 1840, HD

1, entitled: "A BILL FOR AN ACT RELATING TO AIR POLLUTION CONTROL," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Fox, Halford, Jernigan, Moses and Ontai voting no and with Representatives Herkes and Souki being excused.

Representatives Hiraki and Hamakawa, for the Committee on Consumer Protection and Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 641-04) recommending that H.B. No. 2633, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2633, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. In opposition to Stand. Com. 641. First, I'm not a lawyer. The bill has two elements to its title. I believe it's unconstitutional. I think the drafter of the bill could have selected one title or the other. They probably both would have fit. But two titles won't do according to our Constitution.

"Second, this is basically a bill that you know, is going to drive up the cost of litigation. And I think it's unfortunate from that respect. Thank you."

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 Jernigan 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 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 Finnegan 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 Pendleton rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

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

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

"Madame Speaker, I would like to rise in favor, basically to address the concerns that were raised. As far as the two titles issue, we had it researched very thoroughly and in fact there's three AG Opinions. AG Opinion 5723A, 7216, and 7408, that support this particular title, although two different titles is actually consistent with our constitutional law on this particular issue.

"The second point was driving up the cost. I'm not sure what the previous speaker was talking about. What this bill does is strengthen our anti-trust law for the purpose of number one, allowing greater competition in the market place. And number two, that will result in lower prices and will afford consumers lower prices on goods and services.

"So overall, Madame Speaker, and I guess we'll talk about it more on Third Reading, but this is really designed to lower cost in Hawaii. Thank you."

Representative Fox rose to respond, stating:

"Thank you, Madame Speaker. Still in opposition. Basically what this is, it's going to make it easier to sue. And that's what's going to drive up the total cost of using the court system. Thank you."

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

"Madame Speaker, I stand in strong support of this bill. Just to clarify. I believe what this bill does is it merely states that when it comes to a pretrial motion, basically a motion to dismiss or summary judgment motion, we're going to be allowing the case to proceed to jury. We're not going to be allowing the judge to summarily dismiss a case when it comes to something as important as monopolies and restraint of trade because in the public interest, we want to make sure that our consumers are protected. And if there is litigation, we want to make sure that it goes all the way through a trial so that the jury can be the ultimate decision maker as to whether the consumers are being ripped-off or not. And I stand in strong support of this. Thank you."

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

"Thank you, Madame Speaker. I'm going to vote with reservations at this point. and take a look at the Attorney General Opinions that were noticed in the Committee Report.

"What we're doing is that, in order to survive a dispositive pretrial motion, a plaintiff is not required to present evidence that tends to exclude the possibility that the alleged conspirators acted independently. It's rather convoluted. I understand what this section is saying, but it is somewhat convoluted. And I believe that there are some questions about this bill. And I still believe there are questions about the title.

"We know that as some, as things mature, sometimes a prior Attorney General's opinion is modified for valid reasons. Possibly case law or other reasons. And I think that sometimes when we rely on what could be a 'stale' Attorney General's opinion, that reliance could be misplaced. Thank you."

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

"Yes, Madame Speaker. I wish to vote with some reservations on this measure. I believe that the Attorney General wanted to adopt the federal standards and that has not been incorporated in the bill. With that measure, I wish to vote with reservations."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2633, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MONOPOLIES; RESTRAINT OF TRADE," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Blundell, Ching, Finnegan, Fox, Halford, Jernigan, Leong, Marumoto, Meyer, Moses, Ontai, Pendleton and Stonebraker voting no and with Representative Herkes being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 642-04) recommending that H.B. No. 2378, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2378, entitled: "A BILL FOR AN ACT RELATING TO THE SOVEREIGN IMMUNITY OF BOARDS AND COMMISSIONS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Herkes and Souki being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 643-04) recommending that H.B. No. 2320, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2320, HD 1, entitled: "A BILL FOR AN ACT RELATING TO VICTIM RESTITUTION," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Herkes and Souki being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 644-04) recommending that H.B. No. 1765, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1765, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT BOARDS, COMMISSIONS, AND AGENCIES," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Herkes and Souki being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 645-04) recommending that H.B. No. 2717, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2717, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LIENS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Herkes and Souki being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 646-04) recommending that H.B. No. 2786, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2786, HD 1, pass Second

Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. I just want to register a no vote on Stand. Com. Report Number 646, House Bill 2786, House Draft 1. I will reserve my comments for Third Reading. Thank you."

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

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

"In opposition, same measure. As I understand it, this measure allows collection of attorney fees, when the only issue is the amount of the award. It goes to arbitration with the only problem being the amount of the award not the coverage of the insurance policy, but just the amount of the award and attorney's fees are awarded on that. I think that's unnecessary. And we should oppose this."

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

At 5:02 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 5:06 o'clock p.m.

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

"Madame Speaker, I rise in strong support of Standing Committee Report 646.

"Just to clarify, this new bill is necessary in reaction to a Supreme Court case called Labrador v. Liberty Mutual Group. In that case, what happened is the insurance company denied the customer coverage of insurance, and they went to arbitration. The customer had to go and get an attorney to prove that he was entitled to be covered under insurance. However, the Supreme Court found that the current law only covers court cases and not arbitration.

"Any time a consumer is being denied insurance coverage by their own insurance company, and is forced to get an attorney, and thereby go to arbitration, and then be found to have been covered, I think is well within their rights to demand that the attorney's fees for their rights being held up be afforded. Thank you."

Representative Fox rose to respond, stating:

"Thank you, Madame Speaker. Still in opposition. I appreciate the enlightenment from the Vice Chair of the Judiciary Committee, but my exact point was that coverage is the kind of issue you should be subject to attorney fees and arbitration on, but not on the amount of coverage. And this bill also extends to the amount of coverage, which is not the same as an issue involving coverage, a more complicated issue. 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. 2786, HD 1, entitled: "A BILL FOR AN ACT RELATING TO

ARBITRATION," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Fox, Meyer and Moses voting no and with Representatives Herkes and Souki being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 647-04) recommending that H.B. No. 2691, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2691, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"Thank you very much, Madame Speaker. I'm sort of slow today and tried to react to this and I missed this Stand. Com. 647-04, 2691, HD 1. I know this is Second Reading. I will reserve my arguments, I guess if this bill will make it back, for Third Reading.

"I would just like the record to reflect a no vote for me at this time. Since we passed this bill, I have spoken to some of the individuals, both proponents and opponents of this bill. The opponents of the bill indicated that they have been instructed not to testify on this bill. Therefore I believe that that's a defect because they were excluded, although they were present. They were told not to testify. I don't think that the bill should go forward based on that reason.

"In addition, this bill is a similar to the one that was introduced last year. And my concern last year was that we are indeed making it a felony, for some actions that are not as egregious. We should say felony again, and it is my position as it's always been on how we legislate criminal law is that we have to ensure that the punishment is not so severe and not so lopsided. This bill does that. Thank you very much."

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

"Yes, Madame Speaker. I stand in strong support of this bill. Thank you. Madame Speaker, I was present at that hearing. There has never been any action by the Chair of the Judiciary Committee to exclude people from testifying. That did not happen. The Chair of the Judiciary Committee goes out of his way to make sure that everyone in the room has an opportunity to testify. If they have come in too late after he has called their name, he then calls them at the end of the calendar to come up. So that frankly and flatly, did not occur.

"Madame Speaker, the other thing in this bill—it addresses a situation such as the one that occurred in Waimanalo. I think that was about a little over a year ago. A person at Waimanalo Beach was purposefully holding his dog underwater until the dog was practically drowned. A Good Samaritan came over and said, 'Hey brah. Let me help you with this. Let me help you with your dog. I will buy your dog. I'll pay you money for your dog.' The man that was brutally beating his dog refused, took the dog home and killed it. Then the man brought his buddies back to the beach and beat up the Good Samaritan severely, threatened the Good Samaritan and his children and family. And the Good Samaritan, I believe had to get bodyguards just to make sure he could protect his family. It was a horrible situation. It was shown on Channel 2, some of it. The event, the occurrence was talked about on Channel 2.

"There was nothing in our law that could take care of this kind of a situation. So the Judiciary Committee Chairman has very carefully crafted a bill. It does not aim at fighting cocks. That's very clear in the plain language of the bill. It addresses situations such as the one on Waimanalo Beach, so we will have the ability to stop that kind of brutal behavior.

"The thing, Madame Speaker, that people should be aware of is that people that are violent with pets, very often are violent with their domestic partners or their children. There's a very direct link. I think that someone here would know the percentages of when that occurs, but I think it's up like 60% or so. That if you beat an animal, you very likely have been beating family members or other domestic partners.

"The situation that this bill is aiming to address is, let's get a handle on it, let's stop this before the violence escalates. It's not just pets we're talking about, it's also people. So I really would urge Members to vote in favor of this measure. And in no way is it dealing with cock fighting or that aspect. Thank you."

Representative Sonson rose to respond, stating:

"For second time, Madame Speaker. I would like to thank the Representative from Kailua for agreeing that anything that has to do with chicken fighting should be excluded from what we are trying to do. The intent of the bill is something that I can support. In the facts in the story, or in the event that happened in Waimanalo regarding this guy who actually was drowning and punching, and actually on that same day killed his dog, I believe that is cruelty to animals. And should be aggravated. And I think that should be a felony. So I can support that.

"This bill however that's going forward, does not really address that specifically. Those kinds of acts of cruelty to animals or that behavior. I'm sorry it does not address that specifically. And it's not true that this particular legislation before us exclude chicken fighting. It does exclude those people who are in charge of game houses, that's what it exclude. However the people that are in the ring, the people that around that are watching, etcetera are all excluded under another section of 711-1109. So again, I appreciate the work that's been put into this particular legislation, however, the section that deals with again game fowls is still in here. It does make participating in the cultural support of chicken fight, chicken fighting or gamecock a felony. So it's not excluded. Thank you."

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

"Madame Speaker, I stand I strong support. I'm not exactly sure how anyone could interpret the fact that this involves the idea of chicken fighting. Anyone looking at page 2 of the bill, lines 1 through 3, will read, 'Provided this subsection shall not apply where the commission of any offense involves fighting cocks.' I don't know how anyone could consider that to in way, shape or form be construed to include and offense when it specifically is carved out. Thank you."

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

"I'm in opposition. I rose on this measure yesterday. The crime here is it does not, the punishment does not fit the crime in this case. We're elevating the punishment for a cruelty to animals above what it would be for cruelty to humans. And a felony is not the way to go on this. Thank you."

Representative Kahikina 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. 2691, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ANIMALS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Jernigan and Sonson voting no and with Representatives Herkes and Souki being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 648-04) recommending that H.B. No. 87, HD 1, as amended in HD 2, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 87, HD 2, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

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

"Yes, thank you. I would also like to register a no vote on 648. And Madame Speaker, I would like to make some comments.

"On 648, while I think that tradition of having our beachboys is so important in making sure that they retain the Hawaiian nature to them, this bill seems to be very much entering into the realm of business and competition and favoring one business over another. I think it's questionable when the Legislature becomes involved in these types of decisions. Thank you, Madame Speaker."

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

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

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

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

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

"Yes. In strong support of that same measure, House Bill 87, Standing Committee Report Number 648.

"Very briefly but first, let me indicate that any reservations or opposition to this bill is very understandable given that we would normally consider awarding such concessions through the bid process. And as explained in decision making, this is one of those issues where your mind tells you to do one thing, but when you listen to both sides of the issue, your heart tells you that the party now providing the service does deserve some special kinds of consideration, not only because of long-standing tradition and aloha, but listening to the testifiers, you'd

have to be there to appreciate what that all really meant. But additionally, they provide complimentary services to a number of school children on an ongoing basis, and at-risk youth.

"Also as the Committee Report indicates, for the past 27 years, they have saved countless lives. And hundreds, literally hundreds of rescues because people don't realize the dangers involved when lying on a rubber mat and then just to see the wind take them. They've saved an estimated 5 to 6 lives every year. But very important for us to consider is that, they provide the lifeguard services at no cost to the State. And while we recognized that, we didn't fully appreciate the significance of the substantial amount of people saved. So we checked with the City and County this morning and said, if the State, and incidentally this is the only State beach that the State is responsible for, if the State had to hire lifeguards, that would cost the State \$200,000 every year. And so even if we allow for inflation and take yesterday's prices, ten years ago, or twenty-seven years ago, the State has really saved, millions of dollars in not having to pay for lifeguard services.

"So as indicated in the Committee Report, this is still very much a work in progress. And that will, in all probability, we will be asking the Senate to consider putting into this bill provisions for the inclusion of lifeguard services as part of the requirements. Thank you."

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

"Yes, in strong support. Madame Speaker, I would like to incorporate the words of the Representative from Kauai into the Journal as my own. And I also wanted to just to extend that the beachboy services have been there. It's like a tradition. My Uncle Menehune is one of the original beachboys. In fact in Midweek on the front cover, they honor Uncle Buff Kealana. My uncle taught Uncle Buff how to steer a canoe and catch waves. This is a long time tradition.

"And even when I was in the service, my four years of service in the Air Force, when I met people abroad, not only United States but even overseas, a lot of them came to Hawaii and their memories were of their contact with the beachboys. The beachboys are part of our culture. They're basically Hawaiian. And that's why I support it. Thank you."

Representative Kaho'ohalahala rose to speak in support of the measure, stating:

"Thank you, Madame Speaker. I'm rising in strong support. I would like to also the words of the Chair to be incorporated as though they were my own. And then to add a few comments," and the Chair "so ordered." (By reference only.)

"The bill really is giving authority to the Department of Land and Natural Resources to negotiate with this particular vendor as they are able to do under Chapter 102. So we're not asking for any other opportunity except that they are authorized to negotiate with this vendor. And if you look at the bill, the bill goes further by adding on 14 different conditions that the vendor will have to abide by.

If I may, I just want to list a few of the things or the conditions that are stated in the bill. It says, one, that this entity must be incorporated as a non-profit. It says that this entity must demonstrate an effective 'no drug' policy. It also allows that this entity has a demonstrative knowledge in ocean currents, wave actions, canoeing, surfing, ocean survival techniques, interrelationship of mauka/makai. That they possess a canoe captain's license, the surfing instructor's license. And it goes on and on. It even allows for them to have, this was kind of unusual, that they would require

themselves to have a bachelor's degree. So here are beachboys that we are talking about that are going to stand a test of these conditions in this particular instance. But again this bill is intended now just to authorize the Department to negotiate with this specific entity.

"And underlying this, I just wanted to add, Madame Speaker, just a few days ago, we talked about in the opening prayer of our session about Chapter 5. And the fact that aloha has been given a special designation here in the State of Hawaii. And that it also says that as we deliberate as Legislators, as the Governor of the Executive Administration, and as the Judiciary. And we as a Legislative branch, when all sides are deemed to be equal, we have one more ability that we should exercise. And that is the exercise to include aloha as the foundation and the spirit of aloha as an added element in our decision making.

"And I have to say that in the testimony that was presented on that day was so compelling to move us to the idea that we are really talking about an element of aloha here that is a vital part of who we're talking about when we talk about beachboys and Hawaii. So if you want to liken anything else that's symbolic of the Hawaiian Islands, that is liken to that of the aloha spirit, you have to agree that what these beachboys represent are elements of that same spirit of aloha. So given that, as part of our responsibility and duties, then I think that is how this Committee was compelled to move this measure out. And we ask for your support. Mahalo."

Representative Fox rose to respond, stating:

"Thank you, Madame Speaker. I just want to make clear based on the remarks of the two previous speakers that beachboys are a basic part of the culture of the beach, in Waikiki and elsewhere in Hawaii. And nothing in our objections to this bill has anything to do with ruling beachboys of Hawaiian ethnic origin out of the ability to manage these concessions. We just want the process to be fair. Not be assigned to one particular concession of beachboys, but open to all beachboys for fair competition. Thank you, Madame Speaker."

Representative Souki rose in support of the measure and asked that the remarks of Representatives Kanoho, Kaho'ohalahala and Kahikina 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 the report of the Committee was adopted and H.B. No. 87, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LAND USE," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Ching, Fox and Stonebraker voting no and with Representatives Herkes and Souki being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 649-04) recommending that H.B. No. 1796, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1796, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PRIVACY," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Herkes and Souki being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 650-04) recommending that H.B. No. 1259, as amended in

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

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1259, 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:

"Thank you, Madame Speaker. I hope this won't put everyone to sleep but I'm going to speak with reservations about the Uniform Commercial Code. And that's Standing Committee Report 650.

"I believe that we're premature in going ahead with this amendment to the UCC. Madame Speaker, you probably remember from law school, as do I, how that was a very dry and complicated section of the law. I note in here that Texas and Virginia and the Virgin Islands are the only ones that have adopted the new Article 1. We're hardly part of a majority of the states if we go ahead with this provision now. In addition, what has happened in this amended version, we have amended the bill to reflect a consensus draft developed by the Hawaii Bankers Association and Hawaii's Commission to Promote Uniform Legislation. And so as it is amended, the bill does differ from the Model Act.

"The Committee Report notes too that while this bill appears uncontroversial, a much closer look is warranted. And that involves the Committees modified definition of 'good faith'. The Committee Report notes that it raises the possibility that this bill may affect a substantial change in both statutory and common law. I think we should be very cautious before we do that. The Committee Report goes on that the Committee finds that the testimony on this bill was so cursory, that it is not clear whether this change will substantially lower the standard of good faith as it applies in many consumer transactions in Hawaii. Not to mention the potential effect on the common law principle that contracts contained and implied covenant of good faith and fair dealing.

"This apparently harmless bill may actually have serious negative consequences for Hawaii's consumers. The Committee Report further notes at this point, 'Your Committee is not certain that it fully understands the true effect of this bill.' I believe Madame Speaker, we should postpone action on this. Not go forward with it even with a defective date. But I think we should wait to see how other states are dealing with the Model Act if in fact they are going ahead with it. So I would urge every Member to seriously consider whether we should go ahead at this point. Thank you."

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

"Same bill. I'm rising in support. And Members, just for your information, the proponents as well as opponents all wanted the bill to go forward because they want to resolve this, this Session. And this is one way in which the parties can come together and discuss this. So there is a defective date Members for further discussion. Thank you."

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

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

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

Representative Leong 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. 1259, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM COMMERCIAL CODE," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Herkes and Souki being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 651-04) recommending that H.B. No. 1472, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1472, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TIME SHARES," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Herkes and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 652-04) recommending that H.B. No. 2749, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2749, entitled: "A BILL FOR AN ACT RELATING TO STATE FUNDS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Herkes and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 653-04) recommending that H.B. No. 2579, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2579, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING COST ITEMS FOR PUBLIC EMPLOYEES," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Herkes and Souki being excused.

Representatives Hiraki and Hamakawa, for the Committee on Consumer Protection and Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 654-04) recommending that H.B. No. 2788, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2788, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

Representative Stonebraker 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."

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

"I would like a ruling on a potential conflict, please. Although I'm not doing mortgages right now, I am in the mortgage business," and the Chair ruled "no conflict."

Representative Finnegan then spoke in support of the measure with reservations, stating:

"Then I would like to vote with reservations and I will save my comments for Tuesday. Thank you."

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

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

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

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

"Thank you, Madame Speaker. I rise opposition and reserve my comments for Tuesday."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2788, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE BROKERS AND SOLICITORS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Kahikina and Stonebraker voting no and with Representatives Herkes and Souki being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 655-04) recommending that H.B. No. 2254, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2254, entitled: "A BILL FOR AN ACT RELATING TO CHAPTER 707, HAWAII REVISED STATUTES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Herkes and Souki being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 656-04) recommending that H.B. No. 2259, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2259, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MISUSE OF 911," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Herkes and Souki being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 657-04) recommending that H.B. No. 1980, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1980, HD 1, entitled: "A BILL FOR

AN ACT RELATING TO FAMILY COURT," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Herkes and Souki being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 658-04) recommending that H.B. No. 537, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 537, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

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

At 5:13 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 5:31 o'clock p.m.

Representative Jernigan 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. 537, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL RIGHTS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Ching, Jernigan and Stonebraker voting no and with Representatives Herkes and Souki being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 659-04) recommending that H.B. No. 698, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 698, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL TRESPASS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Herkes and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 660-04) recommending that H.B. No. 634, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 634, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE WAIANAE COAST COMPREHENSIVE HEALTH CENTER," passed Second Reading and was placed on the calendar for Third Reading with Representatives Herkes and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 661-04) recommending that H.B. No. 2280, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2280, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Herkes and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 662-04) recommending that H.B. No. 2748, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2748, entitled: "A BILL FOR AN ACT RELATING TO STATE FINANCES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Herkes and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 663-04) recommending that H.B. No. 2136, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2136, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Herkes and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 664-04) recommending that H.B. No. 432, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 432, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STREAM EROSION," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Herkes and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 665-04) recommending that H.B. No. 2581, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2581, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Herkes and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 666-04) recommending that H.B. No. 2703, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2703, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. I rise in strong support of Standing Committee Report 666-04 and would like to insert written comments."

Representative Tamayo's written remarks are as follows:

"This bill is a very necessary one which simply provides a vehicle for the county to transfer impact fees, of which a huge amount has already been collected and is simply sitting in City coffers, to the State so that urgent highway/road improvement projects can begin. This bill is extremely important to residents of quickly-growing communities, such as those in Ewa, who are facing extreme and rapid growth, and the lack of infrastructure to support it. This bill will help to address that problem."

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

"Strong support, 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. 2703, HD 1, entitled: "A BILL FOR AN ACT RELATING TO IMPACT FEES," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Herkes and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 667-04) recommending that H.B. No. 2722, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2722, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"Madame Speaker, I would just like to register an aye with strong reservations on Stand. Com. Report 667. This has to do with the Ala Wai Watershed improvements G.O. bond. I don't have the testimony with me, but many members, ex-members of this organization question this bill. And question the ability this organization to do the work that was described they were going to do with this money. And so I think we should, everyone should read that testimony and look at this carefully. 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. 2722, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ALA WAI WATERSHED IMPROVEMENTS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Herkes and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 668-04) recommending that H.B. No. 2759, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2759, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"On Stand. Com. Report 668, I'd like to register a no vote. This would take \$12 million to buy this land. I realize it's a large piece of property, but it's also a large responsibility. This is land out in Sunset Beach, Pupukea-Paumalu. And the proponents, envision some kind of a private-public partnership. It is just a lot of land to be a steward of. And it would take at least \$12 million. Thank you, Madame Speaker."

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

"Madame Speaker. On the same bill, strong support and remarks in the Journal."

Representative Schatz's written remarks are as follows:

"I want to express my strong support for this measure, which will help us all to "keep the country, country." The North Shore of Oahu, particularly the Pupukea and Sunset Beach area, is one of the most special places on the planet, and we have an opportunity to protect it for future generations. I want to congratulate and thank Representative Michael Magaoay for his leadership on this important issue. He has convinced many of his colleagues of the importance of Saving Sunset Beach, and protecting our beach areas from unnecessary development. Representative Magaoay continues to show real leadership on environmental protection and taking care of the North Shore.

Thank you, Madam Speaker."

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2759, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE PURCHASE OF LAND IN PUPUKEA-PAUMALU, OAHU," passed Second Reading, and was placed on the calendar for Third Reading with Representative Meyer voting no and with Representatives Herkes and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 669-04) recommending that H.B. No. 2573, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2573, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2573, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MANAGEMENT OF STATE FUNDS," passed Second Reading, and was placed on the calendar for Third Reading

with Representatives Meyer and Moses voting no and with Representatives Herkes and Souki being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 670-04) recommending that H.B. No. 2361, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2361, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC AGENCY MEETINGS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Herkes and Souki being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 671-04) recommending that H.B. No. 2370, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2370, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

Representative Finnegan's written remarks are as follows:

"Madame Speaker, I rise in support of S.C.R. 671-04, H.B. 2370, H.D. 1. I am very glad to see the Judiciary Committee move forward this law enforcement coalition bill. It is important for us to use every legal tool available to fight ice in our communities, and this measure is a very important tool. Our law enforcement agencies have testified that they find our current wiretap regime unworkable, and have thus not used it for years. Other testifiers praised the federal law wiretap regime, which this bill emulates, for its effectiveness in providing evidence that breaks up drug rings and leads to the jailing of drug dealers. It is time our state law enforcement agencies had access to this tool.

"I know some of my colleagues have expressed concerns about the impact this bill will have on civil liberties, and we should commend them for their vigilance on this issue. It is important for us to remember, though, that civil liberties can also be endangered by too little government action. The most extensive civil liberties imaginable are little comfort to those individuals who are imprisoned by their own addiction; privacy rights are little help for those whose communities are ruled by the fear imposed by drug dealers. We need to be concerned with public good as well as private right, and I believe this measure strikes an appropriate balance between those goods.

"This is an important bill and a vital tool for our law enforcement agencies in the war on ice. I hope it fares as well in the Senate as it did in this house.

"Thank you, Madame Speaker."

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

"Madame Speaker. I rise in support with some very strong and serious reservations over this bill.

"When this bill came to us, there was one specific provision that's been objected too. And that particularly, in our current law is found in Chapter 803-46, subsection b, which talks about an adversarial hearing process. And they are saying that this adversarial hearing process is one of the things that prevents them from adequately using current technology in order to fight crime."

"However, when we took a look at the data as to whether that's true or not, it becomes very suspect and questionable. Specifically when you look at the U.S. Courts wiretap reports from the years 1997 to years 2002. In a total of 6 years, basically the State has only once tried to go through the current proceedings under Chapter 803. And instead what they are seeking is a way to get around this existing Chapter 803 and try to create a new wiretapping procedure as found in the federal statutes."

"I think one of the reasons I have a strong concern is that they're saying the adversarial system does not work because it potentially infringes on confidentiality and safety of police officers. However, when we asked about this one time that they did get a wiretap, the one time in six years, the one time that they did have an adversarial hearing, there was no leakage of that information. Basically there is no one there from whom the information could be leaked."

"There is an attorney who is appointed. But that attorney is appointed basically just to look after the privacy interest of the person who will be listened in on. The person who will be listened in on actually isn't even present at that time."

"So for the allegations to say that this one provision of the law will undermine any current investigation, will threaten the lives of officers, has not been adequately proven or adequately seen. And when it comes to this one provision, that's the only one that they have really stated is a main problem with our current law when it comes to wiretap. And it's for those reasons that I still have some serious reservations over this bill."

"What we tried to do when we passed out the HD 1 was put in some of the safeguards that are existing in our Chapter 803. Because when it comes to government listening in our citizens, when it comes to government invading the privacy of our citizens, we want to make sure that it is going to be done in a proper manner."

"I think it's important for everyone to realize that our State Constitution actually protects privacy interests in a way that the federal government does not. Our State Constitution provides its citizens with additional privacy protections. And we as a Legislature need to make sure that we uphold these privacy interests and not just give in to some mantra of, 'We need additional tools to fight crime.' When we look at the data, and we have seen that they have not adequately tested the current system. And it's for those reasons, I stand with some strong reservations."

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

"Thank you, Madame Speaker. In strong support."

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

"Madame Speaker, I rise to speak in favor of this measure. I understand the testimony of the Vice Chairman of Judiciary. Apparently he feels that there has been no leakage. But in the testimony presented by the Attorney General, several Attorney Generals from other states testified in writing that there could be a leakage that if word got out. It would be very dangerous

for the people involved for witnesses, who are the law enforcement officers. But that's not the reason for this bill."

"The reason we need this bill is that our State wiretap procedures are so cumbersome that law enforcement has not in the State, in the counties, have not used this procedure. What we are doing is simply conforming to the federal procedure, whereby the law enforcement authorities could take their evidence to a judge in camera and get a ruling as to whether a wiretap is warranted or not. They do not have to go to an adversarial procedure whereby an attorney is appointed to make sure the process is okay."

"I think it would really expedite law enforcement and give them another tool. And it may be a mantra but I think it's a truism, that we need to support our law enforcement officers at this time when we are trying to wage a war on ice. 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. 2370, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRONIC SURVEILLANCE," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Herkes and Souki being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 672-04) recommending that H.B. No. 2301, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2301, 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 a no vote for her, 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. 2301, HD 1, entitled: "A BILL FOR AN ACT RELATING TO APPELLATE JURISDICTION," passed Second Reading, and was placed on the calendar for Third Reading with Representative Thielen voting no and with Representatives Herkes and Souki being excused.

Representatives Hamakawa and Hiraki, for the Committee on Judiciary and the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 673-04) recommending that H.B. No. 2674, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2674, HD 1, entitled: "A BILL FOR AN ACT RELATING TO IDENTITY THEFT," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Herkes and Souki being excused.

Representatives Hiraki and Hamakawa, for the Committee on Consumer Protection and Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 674-04) recommending that H.B. No. 2768, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2768 pass Second Reading and be placed on the calendar for Third Reading, 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 Meyer rose and asked that the Clerk record a no vote for her, and the Chair "so ordered."

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2768, entitled: "A BILL FOR AN ACT RELATING TO TRADE REGULATION," passed Second Reading and was placed on the calendar for Third Reading with Representative Meyer voting no and with Representatives Herkes and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 675-04) recommending that H.B. No. 2742, HD 1, as amended in HD 2, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2742, HD 2, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

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

"Thank you, Madame Speaker. In opposition to 675. I remember when Kathy Matayoshi was the head of DCCA. And we had a State that was proud about how she was able to build a Department that functioned totally on special funds and operated effectively to meet its needs with the Compliance Fund. I am appalled that this is being dismantled by the bill covered by Stand. Com. 675. Thank you."

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

"In opposition, Madame Speaker. It was funny to me in Finance Committee the other night when the room was full of all the people regulated by DCCA saying, 'Please, please. Let me pay for the privilege to be regulated.' There was no opposition. They wanted to be regulated and pay the fees to do so. They were going to the CRF. The special fund.

"Now we're going back to the way it was, which is general fund. And all of them said, 'Please don't do that. Don't do that to us'. We want to pay the fee that is directly used to regulate us. Instead of everybody being taxed and it going into the general fund to regulate the agencies, the contractors, whoever was applying for these fees. So I think we are going backward.

We changed this law. It's working very, very well. Everybody's happy with it. Why are we changing it? Thank you."

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

"Thank you, Madame Speaker. Yes, this bill will take the DCCA out of the special fund ... I'm opposed to the bill. And put it back in the general fund. I think some of the arguments were that the Compliance Resolution Special Fund was, over time, growing a fairly large surplus. And that sort of would create us wanting to take a look and scrutinize it somewhat.

"When the Governor came into office and these new Department heads began their jobs. The Director there at DCCA saw that they did indeed, they were getting a fairly good surplus and they should take a look at their fee schedule. They did reduce a number of fees by Executive Order, not through the Legislature. The Director said he still saw there was a need to reduce fees and also for the Department to have more flexibility to do that, to reduce fees. And if it looked like they needed to charge more to increase them but they needed the flexibility. So they did introduce through the Administration, a number of bills to try to take care of that situation.

"And as the Representative from Makakilo said, in the hearing, there was only one person that supported this and the room was full of people that opposed it. And many of them remembered the bad old days when the Department didn't have a good reputation. People waited in line. Lines going all the way out the door. If you really wanted something done, you had to pay extra money to have it expedited. That's no longer happening.

"I remember the last Governor, he was very proud of the fact that the DCCA was self-sufficient, operating on the fees that it collected. And the present Director stated, he has a pretty happy group there. The morale is good. They're operating like a business. And their customers, all these licensees are very happy with the service they're getting. And as the Representative from Makakilo said, they don't mind paying when they get the good service. They're not grouching like they were under general funds.

"This bill will take the money out of the special fund. And then by way of the budget will fund DCCA for about \$30 million, which is about \$8 million less than what they have in the special fund now.

"The Director talked about various new programs that they wanted to get started with. But this bill just appears to me to be a way to find \$8 million. Thank you, Madame Speaker."

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

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

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

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

"Madame Speaker, I rise in support of this measure. You know the business community applauds the DCCA for being efficient, customer friendly, just as the Representative from Makakilo stated. But that excellent work can be attributed to their excellent managers and their diligent employees. It has absolutely nothing to do with which account their paychecks are drawn from. We're simply trying to move DCCA to the general fund to provide greater accountability, greater transparency. Our economy is not going to crumble if this happens. The business community is still going to interact with DCCA. Only now, the DCCA will not be a kingdom unto itself. It will be held accountable to the scrutiny of all other general fund programs.

"The Tax Foundation's Lowell Kalapa was in front of the Finance Committee on Wednesday. And he cited, what I thought was a very telling example. He says that \$2 million of the financial institution's tax is deposited to the credit of the Compliance Resolution Fund and is supposedly for the oversight and examination of financial institutions regulated by the State. However, there is no public disclosure as to how much this activity really cost the State or if the examinations are sufficient to maintain public confidence. He goes on to say the public disclosure that would result would benefit not only the regulated professionals and industries, but also the customer to whom these costs are passed.

"Madame Speaker, this bill represents good, clean, and efficient government. Thank you."

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 an aye vote with reservations for her, and the Chair "so ordered."

Representative Moses rose to respond, stating:

"There was testimony that they believed that the change here in the law would violate a 1999 Hawaiian Supreme Court case, State v. Medeiros. Because you will be taking money from these licensed contractors and putting in the general fund. You're not using the money for the intended purpose, which is to regulate them. That was their testimony. 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. 2742, HD 2, entitled: "A BILL FOR AN ACT RELATING TO STATE GOVERNMENT," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Blundell, Ching, Finnegan, Fox, Halford, Meyer, Moses, Stonebraker and Thielen voting no and with Representatives Herkes and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 676-04) recommending that H.B. No. 2743, HD 1, as amended in HD 2, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2743, HD 2, 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 with reservations, stating:

"With reservation. This bill was thrown at the Committee at the last minute. Nobody had a chance to really study it. I'm in the same position."

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

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

"I rise in opposition to 676. It was curious to me when I first came into the Legislature to see sort of a scraping of numerous special funds or revolving funds into the general fund. And I'm not sure that it's a good fiscal policy. I think it's sort of a patchwork budgeting process. I realize that at times that it has to be done. But if there's excess funds in certain revolving funds or special funds, perhaps fees in those departments should be decreased. Perhaps they should manage their own money so that they retain a sort of a balanced budget. That it's not too excessive and it's not depleted too much. But for us to scrape off the top sort of like the cream to bring into our own special fund, I'm concerned with that. So I'm voting no. Thank you."

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

"Thank you, Madame Speaker. I'm rising in opposition to this bill.

"This is a raid of many, many special funds equaling, adds up to about \$12.9 million. I find it very curious that, you know, we are passing a bill to provide about \$20 million for substance abuse treatment and prevention, and yet we're raiding a fund for the Department of Health, that is for mental health and substance abuse. It's like we're taking the money out of one pocket and sticking it somewhere else.

"There's a question about all of these. If they have these large balances and we take it out of the general fund, it was for a specific purpose in the special fund. There's one here for \$3 million from the Hawaii Community Development Revolving Fund. There's no guarantee that we are going to spend it for anything that it would have gone to if it stayed in their fund. Thank you."

Representative Moses 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:

"With reservations, Madame Speaker. And there's an issue I really want to look into further. Page 4 of the bill, lines 20-21, and running over to page 5. It's taking, if it's the way I read it, it is taking \$500,000 out of the Tobacco Enforcement Special Fund. And I'm really concerned about that."

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

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

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

Representative Leong 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. 2743, HD 2, entitled: "A BILL FOR AN ACT RELATING TO NON-GENERAL FUNDS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Meyer, Moses and Stonebraker voting no and with Representatives Herkes and Souki being excused.

THIRD READING

At this time, the Chair announced:

"Members, on Stand. Com. Report 677-04, House Bill Number 862, House Draft, is deferred one legislative day."

Stand. Com. Rep. No. 677-04, and H.B. No. 862, HD 1:

By unanimous consent, Stand. Com. Rep. No. 677-04, and H.B. 862, HD 1, were deferred one legislative day.

The Chair then announced:

"Members, also at this point, turn to page 20, House Bill 557, House Draft 1, that will be taken out of order."

H.B. No. 557, HD 1:

Representative Saiki moved that H.B. No. 557, HD 1, be recommitted to the Committee on Health, seconded by Representative Lee.

The motion was put to vote by the Chair and H.B. No. 557, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," was recommitted to the Committee on Health with Representatives Herkes, Ito and Souki being excused.

At 5:54 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 6:09 o'clock p.m.

H.B. No. 1784, HD 1:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 1784, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INCOME TAX," passed Third Reading by a vote of 49 ayes, with Representatives Herkes and Ito being excused.

H.B. No. 2596, HD 1:

Representative Saiki moved that H.B. No. 2596, 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 support of House Bill 2596, House Draft 1, which provides for a state income tax credit. I am in support of this bill because it would complement the existing

federal earned income tax credit (EITC), which is a significant part of the federal anti-poverty effort. By passing this bill, we will create a tax credit designed to supplement the wages of low-income working families and individuals in Hawaii.

"Mr. Speaker, the EITC is not just income support; it is work incentive because the beneficiaries of the tax credit are people who work. This creates a "make work pay" initiative. Individuals not employed -- for example, welfare recipients -- will experience additional benefits from work due to the EITC primarily by making work relatively more attractive than being on welfare. Additionally, the very lowest income workers are encouraged to work more hours because the amount of their credit increases as their earnings increase

"Unlike other anti-poverty programs, such as Temporary Assistance for Needy Families (TANF) or food stamps that reduces benefits as low-income workers earn more, EITC benefits increase as earnings increase -- over a certain range -- and only begin to phase out as a family's income increases above the poverty level. If the consequence of working or earning more is to see a reduction of many of the benefits you would otherwise be qualified for, the result is a diminished work incentive for the very lowest-income workers. We see this principal in place nowadays. If we had a system that saw an increase in benefits, we would see an increase in the work incentive. EITC accomplishes that.

"In addition, Mr. Speaker, the EITC would allow for social mobility as well. Not only does the tax incentive encourage workers to move away from welfare; it would also provide a means for them to be completely out of welfare. The first step in this process is to obtain jobs and the next step is to realize self-sufficiency. For example, workers who move from part-time work to full-time work will receive health benefits provided by their employer. And those who have full-time work generally have significantly better career prospects and economic benefits compared to that of part-time workers or those who do not work at all. Again, the more reward the better the incentive to actually work.

"Mr. Speaker, the earned income tax credit is not just to offer income support; it is a program that offers long term solutions and effective work incentives. It is unlike other programs that generally provide benefits to families that are not working, and whose benefits begin to phase out soon after workers enter the labor force. According to a study by the California Legislative Analysts Office, 'the federal EITC does encourage low-income individuals-- including welfare recipients--to go to work, and for those with the very lowest incomes, it encourages them to work more.' This is powerful information and good news.

"Mr. Speaker, I also want to remind our colleagues that the earned income tax actually arose with an economist. That economist was a free market economist named Milton Friedman. Born on July 31, 1912, in Brooklyn, N.Y., the fourth and last child and first son of Sarah Ethel (Landau) and Jeno Saul Friedman, Friedman would go on to become one of the most influential and most prolific of economists. I attribute my own personal growth in understanding of economics to Milton Friedman's book *Free to Choose*. And I credit his teachings for shaping my economic views, especially over the last year or so here in the Legislature.

"Friedman attended public elementary and secondary schools, graduating from Rahway High School in 1928, just before his 16th birthday. His father died during his senior year in high school, leaving his mother plus two older sisters to support the family. With heavy financial odds against him, he would attend college to become one of the innovative authorities on social economic policy.

"He was awarded a competitive scholarship to Rutgers University where he fell in love with economics. Having received outstanding grades, he went on to the University of Chicago Economics Department. Little did he know that after receiving his Ph.D. and after having served in various government economics positions he would return to Chicago to become a fixture there among the academic elites.

"His Ph.D. was actually earned in New York City at Columbia University. That dissertation was published as a book but its publication was delayed until after the war because of controversy among some Bureau directors about his conclusion that the medical profession's monopoly powers had raised substantially the incomes of physicians relative to that of dentists. More important, scientifically, that book introduced the concepts of permanent and transitory income.

"Professor Milton Friedman showed how market forces were just not defeatable. The best we can do is acknowledge them and work with them. There are always consequences – sometimes unintended consequences. Hence we need to look at solving our problems in a way which recognizes the laws of economics.

"On the welfare front, Friedman advocated a negative income tax. This way instead of creating a myriad of programs to address basic human needs, policy makers simply decided what was basic income someone needed to survive and then give them that money so they could in turn go out into the market and obtain necessary goods and services. You could then cut out all the middle men.

"That negative income tax notion gave birth to ideas like the earned income tax credit. He deserves acknowledgement for notions like this. I am happy to see that he does get credit. And I am even more delighted to vote for this measure today. It will be a great day when our Governor is able to sign this into law.

"Mr. Speaker, for these reasons, I stand in support of the passage of House Bill 2596, House Draft 1 and the earned income tax credit for the citizens of Hawaii.

"I thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and H.B. No. 2596, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 49 ayes, with Representatives Herkes and Ito being excused.

H.B. No. 1944, HD 1:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 1944, HD 1, 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 49 ayes, with Representatives Herkes and Ito being excused.

H.B. No. 2057, HD 1:

Representative Saiki moved that H.B. No. 2057, HD 1, pass Third Reading, seconded by Representative Lee.

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

"I stand in opposition to House Bill 2057, House Draft 1. Thank you, Madame Speaker. This SPRB provides for Covanta Honolulu Resource Recovery Venture, and it's known as HPOWER.

"Madame Speaker, my opposition is not only because Covanta filed a Chapter 11 some time back. Not only because Covanta has been enjoying a tax break on their profits. But more so my opposition is because of how the City and County of Honolulu does their businesses. And in this situation, the City and County of Honolulu took all of the money that was put aside from the profits that would have gone to replace and build a third burner, to basically balance the budget.

"Madame Speaker, the City and County understands that we have a problem with the rubbish. I stand in opposition because this is about injustice to the ecology. This about environmental justice on our side. On the Waianae Coast where Representative Shimabukuro and myself represent and also Representative Moses, it seems that we have all the rubbish dumped. It seems like we have all the homeless people. It seems like we have all the transitional housing. It seems like we have all the inexperienced teachers. Madame Speaker, we have all the trash that from all the islands coming to our side. In fact, in Waimanalo, not even 20% of that trash comes from our side.

"Madame Speaker, my opposition is because of how the City and County does their business. I believe that this company needs this SPRB to get out of bankruptcy, but that's not how you should handle your bankruptcy. You should do good business. And this company, HPOWER has been down for quite some time. The Waimanalo dump is being overextended. And now the City and County is looking at a different place to put the rubbish. And guess where the first priority is? In our district, in Nanakuli, across of PVT. An area that is right next to a major shopping center in Nanakuli. An area next to low-income housing. An area next to the homestead area. And this is where they want to pollute.

"Madame Speaker, I want to request to insert more written comments," and the Chair "so ordered."

Representative Kahikina's written remarks are as follows:

"HB 2057, HD 1, is based on the premise that having three incinerators at HPOWER rather than two will help alleviate the Leeward Coast's ongoing problems with the overburdened Waimanalo Gulch landfill. Three outmoded, inefficient and hugely expensive incinerators are not the answer that Leeward Coast residents wanted or expect from the City. The Waimanalo Gulch is the ugly poster child for neglect and lack of aloha for these residents. We are outraged that more funds will be spent to continue the practice of adding municipal solid waste to our *'aina*.

"There is no doubt that archaic incineration systems such as HPOWER cannot eliminate all MSW, and what cannot be eliminated will be dumped in the landfill. With passage of this measure, the State Legislature will be condoning the City's plan to continue this total reliance on landfills to the detriment of our Leeward families. This unhealthy and unecological practice must stop, and the City and State governments must immediately challenge themselves to actively support alternative technologies that will wean us from landfill dependency. There is nothing environmentally sensitive about a landfill, and there is nothing environmentally sensitive about supporting an industry, such as HPOWER, that continues to add MSW to our communities.

"In his State of the City Address in January 2003, Mayor Harris tossed a bone to our residents. In *Alice in Wonderland* fashion, he stated that, "most refuse that can't be recycled is now turned into electricity at HPOWER." If this is true, then why does the Waimanalo Gulch continue to be choked with MSW daily? In truth, there are thousands of tons of MSW that cannot be incinerated and turned into electricity no matter how

many smokestacks are built. Incineration with HPOWER technology leaves 1,400 tons of ash residue with MSW daily for disposal in the Waimanalo Gulch.

"The Mayor did offer hope to our beleaguered people. He said that he would ask the private sector to respond to an RFP supporting "cutting edge technology" such as the plasma torch technology "to handle our waste." When the private sector reviewed the RFP, it was so restrictive that there was no way for innovative technology companies to satisfy the City. The City Administration has made it impossible to fulfill the Mayor's pledge – a pledge that held the promise of ending landfill dependence once and for all. They have pulled the plug on the RFP. The Mayor's pledge must be called for what it was – *shibai*. Our community got lip service so that the Administration could buy time to stifle community demands under false hope. Officials will now tell us that HPOWER is the only way to go because that is the only way they have always wanted to go. Let's face it. The City makes money off the misery caused by landfills in our community – it is a profitable business. If all the *opala* is totally destroyed, then there is nothing to feed the landfill and no money to the City. Our health is being traded for a pot of gold.

"I urge this body to require that the City, in return for this SPRB, spend an equal amount of money on the "cutting edge" technology promised by the Mayor. Give the private sector an incentive to fix this environmental hazard through innovation and modern science. Let's stop paying lip service to our health and require the City or State Department of Health to issue an RFP or enter into direct negotiations with interested companies aimed at solving the MSW problem, right now. We cannot continue to be fooled into supporting harmful projects like HPOWER. If the City is unwilling to do this, this body should kill HB 2057, HD 1. I will not support this unhealthy project while it continues to pollute my neighbors and myself with no end in sight."

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

"In opposition and I'd like to incorporate the words of the previous speaker, as well as his written remarks when he writes them," and the Chair "so ordered." (By reference only.)

The motion was put to vote by the Chair and carried, and H.B. No. 2057, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR HPOWER PLANT BOILER ADDITION," passed Third Reading by a vote of 45 ayes to 4 noes, with Representatives Arakaki, Bukoski, Kahikina and Ontai voting no and with Representatives Herkes and Ito being excused.

H.B. No. 2170, HD 1:

Representative Saiki moved that H.B. No. 2170, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you very much, Madame Speaker. In strong support of House Bill Number 2170."

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

"Madame Speaker, I'd like to request a ruling on a possible conflict. On House Bill 2170, HD 1, our law firm of which I'm a partner, does the legal work for the Rehabilitation Hospital of

the Pacific. And one of my fellow partners is on their Board," and the Chair ruled "no conflict."

The motion was put to vote by the Chair and carried, and H.B. No. 2170, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS FOR REHABILITATION HOSPITAL OF THE PACIFIC," passed Third Reading by a vote of 49 ayes, with Representatives Herkes and Ito being excused.

H.B. No. 2322, HD 1:

Representative Saiki moved that H.B. No. 2322, HD 1, pass Third Reading, seconded by Representative Lee.

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

Representative Karamatsu's written remarks are as follows:

"Madame Speaker, I rise in support.

"This bill would authorize the issuance of special purpose revenue bonds for the purpose of assisting Aloun Farms, a Hawaii corporation, in building an agricultural processing plant. I support Aloun Farms in its efforts to promote diversified agriculture and events that help raise community awareness of farming. Thank you."

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

"In strong, strong support, Madame Speaker. And my comments entered into the Journal."

Representative Mindo's written remarks are as follows:

"Mr. Speaker, I rise in support of House Bill 2322, House Draft 1:

"Mr. Speaker and Members of the House, the purpose of House Bill 2322, House Draft 1, is to authorize the issuance of special purpose revenue bonds, the amount of which is to be determined, for the purpose of assisting Aloun Farms, a Hawaii corporation, in building an agricultural processing plant. Construction of an agricultural processing plant would include the construction of a central processing and packing facility with acquiring the Well Water System and the minimum agriculture land in the Ewa Plain. The need is for \$12 million.

"The prime agriculture land with clean water that is requested is the last open space between the two cities of Kapolei and Honolulu proper. Loss of this ground would be a major disruption to Aloun Farms' business and on-going job creation and income benefit to the State. Furthermore, the development of an agro-tourism center on Central Oahu will have a permanent ground and will require a minimum of such grounds. Another project possible with Aloun Farms is the development of an International Agriculture Training Center on Asian and specialty vegetables with the application of modern farming techniques to merge with traditional farming practices. This will involve our on-going close working relationship with the University of Hawaii's College of Tropical Agriculture and Human Resources, and the Universities from Thailand, Malaysia, Taiwan, China, and the greater Asian Basin.

"I urge my colleagues to please vote in favor of House Bill 2322, House Draft 1. Thank you, Mr. Speaker."

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

"I just want to I'm in strong support of this SPRB for Aloun Farms."

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

"Thank you very much. In strong support as well. Thank you."

The motion was put to vote by the Chair and carried, and on motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2322, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST PROCESSING ENTERPRISES," passed Third Reading by a vote of 49 ayes, with Representatives Herkes and Ito being excused.

H.B. No. 2739, HD 1:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2739, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS BY THE HIGH TECHNOLOGY DEVELOPMENT CORPORATION," passed Third Reading by a vote of 49 ayes, with Representatives Herkes and Ito being excused.

H.B. No. 2773, HD 1; and

H.B. No. 2774, HD 1:

Representative Saiki moved that H.B. No. 2773, HD 1, and H.B. No. 2774, HD 1, pass Third Reading, seconded by Representative Lee.

Representative Fox rose to speak in opposition to both measures, stating:

"Thank you, Madame Speaker. I'd like to comment briefly in opposition to 2773 and 2774. Two House Bills that are related to each other.

"These bills would override the condominium association regulations in order to help ham operators put their antennas on the buildings. I think that we should support ham operators through a system that allows them to take their case to the condominium associations and persuade them that what they want to do is right. I think that's where to manage it. Not at the Legislature. Let's concentrate on fixing education and fighting ice. Thank you."

Representative Blundell rose in opposition to both measures 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 Moses rose to speak on both measures, stating:

"Thank you, Madame Speaker. I am opposed to HB 2773 for the same reason. I think, you know, the condominium associations should make the rules in this case. And be able to regulate the antennas and the size of the place, but everything else.

"The amateur radio operations in the subdivisions, you know, some subdivisions do have associations. Others do not. So that's a mixed bag. And I will just cast my reservations on that measure Madame Speaker, because I don't know exactly which associations or subdivisions would have the say over those.

"Some areas don't have any condominium associations or other associations. Well, I'm sorry. They do have condominium associations, but some subdivisions just are not regulated at all. They're just bunches of houses that are there, and not regulating associations. There are possibly Neighborhood Boards on this island, but not on other islands. Thank you."

Representative Finnegan rose in opposition to both measures and asked that the remarks of Representative Fox be entered in the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative Morita rose to speak in opposition to both measures, stating:

"Thank you, Madame Speaker. In opposition to both measures.

"The major proponent of this bill apparently lives within my district. And one of the reasons given to support this measure was communications during emergencies. And I just wanted people to know that I've received several pieces of communications from the Princeville Community Association and they assured me that they participate. They are participating in an emergency communication system with the civil defense, police department, and fire department for emergency situations. And as you know, especially on the island of Kauai, with having gone through two major hurricanes that it's a very important issue to us. So I guess the impression was left that without these types of operators that we would be left without any kind of emergency system. But they in fact exist."

Representative Jernigan rose to speak in opposition to both measures, stating:

"In opposition to both measures, 2773 and 2774, allowing amateur radio operators to install antennas in subdivisions with CCNRs.

"These people purchase their homes or the property owner, if they rent, purchased the property. They entered into an agreement. A contractual agreement with the other members of the association. And for this Legislature to meddle in those contracts, I think it's very inappropriate."

Representative Ching rose in opposition to both measures and asked that the remarks of Representatives Morita and Fox be entered in the Journal as her own, and the Chair "so ordered." (By reference only.)

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

Representative Souki rose to speak in opposition to both measures, stating:

"Yes, Madame Speaker. Please register a no vote on both of these items. The reason being it's imposing upon the condominium covenants and agreements that they agreed to when they purchased it. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 2773, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUM PROPERTY REGIMES," passed Third Reading by a vote of 32 ayes to 17 noes, with Representatives Blundell, Bukoski, Ching, Finnegan, Fox, Halford, Jernigan, Kahikina, Kanoho, Leong, Meyer, Morita, Moses, Ontai, Pendleton, Souki and Stonebraker voting no and with Representatives Herkes and Ito being excused; and

H.B. No. 2774, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SUBDIVISIONS," passed Third Reading by a vote of 34 ayes to 15 noes, with Representatives Blundell, Bukoski, Ching, Finnegan, Fox, Halford, Jernigan, Kahikina, Kanoho, Leong, Meyer, Morita, Pendleton, Souki and Stonebraker voting no and with Representatives Herkes and Ito being excused.

H.B. No. 2297, HD 1:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2297, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GUARDIANSHIP AND PROTECTIVE PROCEEDINGS," passed Third Reading by a vote of 49 ayes, with Representatives Herkes and Ito being excused.

H.B. No. 2578, HD 1:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2578, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST HONOLULU SEAWATER AIR CONDITIONING LLC PROJECTS ON THE ISLAND OF OAHU," passed Third Reading by a vote of 48 ayes to 1 no, with Representative Caldwell voting no and Representatives Herkes and Ito being excused.

H.B. No. 2584, HD 1:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2584, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING COST ITEMS," passed Third Reading by a vote of 49 ayes, with Representatives Herkes and Ito being excused.

H.B. No. 2580:

Representative Saiki moved that H.B. No. 2580, pass Third Reading, seconded by Representative Lee.

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

"On House Bill 2580, I did vote no on Second Reading. There are no figures in there. But I do have some concerns about what we will ultimately put in there. I do believe these folks deserve a raise but I'm worried about what it will be. We don't have the figures now, so I will just register my reservations."

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

"Thank you, Madame Speaker. On the same measure, I have reservations also. We just don't know the amounts."

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

"Thank you, Madame Speaker. On that same measure, I'd like a no vote. Here again, we're going for a blank check."

The motion was put to vote by the Chair and carried, and H.B. No. 2580, entitled: "A BILL FOR AN ACT RELATING TO STATE OFFICERS AND EMPLOYEES EXCLUDED FROM COLLECTIVE BARGAINING AND MAKING APPROPRIATIONS AND OTHER ADJUSTMENTS," passed Third Reading by a vote of 47 ayes to 2 noes, with

Representatives Blundell and Leong voting no and with Representatives Herkes and Ito being excused.

H.B. No. 2582:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2582, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING COST ITEMS," passed Third Reading by a vote of 49 ayes, with Representatives Herkes and Ito being excused.

At 6:21 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 6:22 o'clock p.m.

At 6:26 o'clock p.m., the Chair noted that H.B. Nos.: 1784, HD 1; 2596, HD 1; 1944, HD 1; 2057, HD 1; 2170, HD 1; 2322, HD 1; 2739, HD 1; 2773, HD 1; 2774, HD 1; 2297, HD 1; 2578, HD 1; 2584, HD 1; 2580; and 2582; passed Third Reading.

H.B. No. 2583:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2583, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING COST ITEMS," passed Third Reading by a vote of 49 ayes, with Representatives Herkes and Ito being excused.

H.B. No. 2446:

Representative Saiki moved that H.B. No. 2446, pass Third Reading, seconded by Representative Lee.

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

"Regarding House Bill 2446, Committee Report 629, I just wanted to simply acknowledge my strong support. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 2446, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR COLLECTIVE BARGAINING INCREASES," passed Third Reading by a vote of 49 ayes, with Representatives Herkes and Ito being excused.

H.B. No. 2354:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2354, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO RISK MANAGEMENT," passed Third Reading by a vote of 49 ayes, with Representatives Herkes and Ito being excused.

H.B. No. 2747:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2747, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 49 ayes, with Representatives Herkes and Ito being excused.

H.B. No. 2463:

On motion by Representative Saiki, seconded by Representative Lee and carried, H.B. No. 2463, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEES," passed Third Reading by a vote of 49 ayes, with Representatives Herkes and Ito being excused.

At 6:27 o'clock p.m., the Chair noted that H.B. Nos.: 2583; 2446; 2354; 2747; and 2463; passed Third Reading.

ANNOUNCEMENTS

Representative Finnegan: "Just a reminder for everyone that the Blood Drive is on Monday. Thank you."

Representative Shimabukuro: "Also a reminder that on Monday at 8:30 in the morning, Room 329, there's going to be a Weed and Seed informational meeting. 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 Meyer and carried. (Representatives Herkes and Ito were excused.)

At 6:28 o'clock p.m. on motion by Representative Lee, seconded by Representative Meyer and carried, the House of Representatives stood in recess until 9:00 o'clock a.m., Tuesday, March 9, 2004. (Representatives Herkes and Ito were excused.)

STANDING COMMITTEE REPORTS

In accordance with the motion made, the following Standing Committee Reports (Stand. Com. Nos. 678-04 through 773-04) were received by the Clerk prior to 12:00 midnight this legislative day, and the following actions were taken:

Stand. Com. Rep. No. 678-04 (JUD) and H.B. No. 2158, entitled: "A BILL FOR AN ACT RELATING TO FINANCIAL DISCLOSURE STATEMENTS," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 679-04 (JUD) and H.B. No. 2251, entitled: "A BILL FOR AN ACT RELATING TO CHAPTER 291E," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 680-04 (FIN) and H.B. No. 1786, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EXEMPT EMPLOYEES," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 681-04 (FIN) and H.B. No. 2659, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 682-04 (FIN) and H.B. No. 2294, entitled: "A BILL FOR AN ACT RELATING TO FEES FOR ADMINISTRATIVE COSTS IN TRAFFIC CASES," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 683-04 (FIN) and H.B. No. 2462, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEES," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 684-04 (FIN) and H.B. No. 2466, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR THE STATE WORKERS' COMPENSATION PROGRAM," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 685-04 (FIN) and H.B. No. 2273, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 686-04 (FIN) and H.B. No. 2467, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SALARIES," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 687-04 (FIN) and H.B. No. 2529, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HAZARDOUS LAND," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 688-04 (EDN) and H.B. No. 1937, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF EDUCATION," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 689-04 (LAB) and H.B. No. 2645, 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 9, 2004.

Stand. Com. Rep. No. 690-04 (CPC) and H.B. No. 2539, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO HOSPITALS," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 691-04 (CPC) and H.B. No. 2229, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT RECORDS," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 692-04 (CPC/JUD) and H.B. No. 1987, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 693-04 (CPC/JUD) and H.B. No. 2098, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL RECORDS," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 694-04 (JUD) and H.B. No. 2527, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL INTEREST VEHICLES," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 695-04 (JUD) and H.B. No. 1991, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO AUTOMATIC EXTERNAL DEFIBRILLATORS," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 696-04 (JUD) and H.B. No. 680, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO ETHICS," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 697-04 (JUD) and H.B. No. 2964, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO ADMINISTRATIVE INSPECTIONS," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 698-04 (JUD) and H.B. No. 1769, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT CONTRACTS FOR BROADCAST INDUSTRY EMPLOYEES," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 699-04 (JUD) and H.B. No. 2023, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO ADMINISTRATIVE APPEALS," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 700-04 (JUD) and H.B. No. 2142, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO BUSINESS PRACTICES," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 701-04 (JUD) and H.B. No. 2206, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 702-04 (JUD) and H.B. No. 706, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO OFFENSES AGAINST THE PERSON," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 703-04 (JUD) and H.B. No. 2792, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO PRIVATE ROADS," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 704-04 (LMG) and H.B. No. 1898, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO FINANCIAL LITERACY FOR YOUTH MONTH," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 705-04 (FIN) and H.B. No. 1780, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 706-04 (FIN) and H.B. No. 2191, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENTERPRISE ZONES," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 707-04 (FIN) and H.B. No. 2359, as amended in HD 1, 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 9, 2004.

Stand. Com. Rep. No. 708-04 (FIN) and H.B. No. 2403, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE FEDERAL TAX LIMIT ON COMPENSATION APPLICABLE TO THE EMPLOYEES' RETIREMENT SYSTEM," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 709-04 (FIN) and H.B. No. 2025, HD 2, as amended in HD 3, entitled: "A BILL FOR AN ACT RELATING TO EQUAL PAY," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 710-04 (FIN) and H.B. No. 2172, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO TELECOMMUNICATIONS," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 711-04 (FIN) and H.B. No. 2796, as amended in HD 1, entitled: "A BILL FOR AN ACT

RELATING TO STATE FUNDS," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 712-04 (FIN) and H.B. No. 1335, HD 2, as amended in HD 3, entitled: "A BILL FOR AN ACT RELATING TO TUITION WAIVERS," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 713-04 (FIN) and H.B. No. 1924, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO TEACHER COMPENSATION," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 714-04 (FIN) and H.B. No. 2911, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO CHARTER SCHOOLS," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 715-04 (FIN) and H.B. No. 2404, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO FEDERAL TAX QUALIFICATION OF THE EMPLOYEES' RETIREMENT SYSTEM," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 716-04 (FIN) and H.B. No. 2408, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 717-04 (FIN) and H.B. No. 1805, HD 2, as amended in HD 3, entitled: "A BILL FOR AN ACT RELATING TO THE STATE PLAN," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 718-04 (FIN) and H.B. No. 1806, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO MILITARY INSTALLATIONS," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 719-04 (FIN) and H.B. No. 2662, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC DEVELOPMENT," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 720-04 (FIN) and H.B. No. 2088, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO CRITICAL ACCESS HOSPITALS," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 721-04 (FIN) and H.B. No. 2215, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 722-04 (FIN) and H.B. No. 2262, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO PENSION AND RETIREMENT SYSTEMS," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 723-04 (FIN) and H.B. No. 2398, 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 on March 9, 2004.

Stand. Com. Rep. No. 724-04 (FIN) and H.B. No. 2444, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE MILITIA," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 725-04 (FIN) and H.B. No. 2713, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO SOCIAL SECURITY FOR PUBLIC EMPLOYEES," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 726-04 (FIN) and H.B. No. 2864, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONAL FACILITIES," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 727-04 (FIN) and H.B. No. 2814, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO KALAUPAPA SETTLEMENT," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 728-04 (FIN) and H.B. No. 2956, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO MASS TRANSIT," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 729-04 (FIN) and H.B. No. 1774, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT BENEFITS," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 730-04 (FIN) and H.B. No. 2061, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS TAX," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 731-04 (FIN) and H.B. No. 2291, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 732-04 (FIN) and H.B. No. 2022, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO GENERAL ASSISTANCE," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 733-04 (FIN) and H.B. No. 2181, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO HOUSING FINANCING PROGRAMS," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 734-04 (FIN) and H.B. No. 2960, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY TECHNOLOGIES INCOME TAX CREDIT," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 735-04 (FIN) and H.B. No. 2230, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO SHORTAGE CATEGORIES," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 736-04 (FIN) and H.B. No. 1717, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 737-04 (FIN) and H.B. No. 1919, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEES," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 738-04 (FIN) and H.B. No. 1894, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT

RELATING TO STUDENT HEALTH," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 739-04 (FIN) and H.B. No. 2321, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 740-04 (FIN) and H.B. No. 2015, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO LONG-TERM CARE," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 741-04 (FIN) and H.B. No. 1071, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC UTILITIES COMMISSION," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 742-04 (FIN) and H.B. No. 1906, 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 on March 9, 2004.

Stand. Com. Rep. No. 743-04 (FIN) and H.B. No. 2186, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE FILIPINO CENTENNIAL CELEBRATION COMMISSION," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 744-04 (FIN) and H.B. No. 2459, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 745-04 (FIN) and H.B. No. 2667, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO HAWAIIAN LANGUAGE MEDIUM EDUCATION," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 746-04 (FIN) and H.B. No. 2976, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE WEED AND SEED STRATEGY," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 747-04 (FIN) and H.B. No. 1710, 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 on March 9, 2004.

Stand. Com. Rep. No. 748-04 (FIN) and H.B. No. 1792, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO LABOR," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 749-04 (FIN) and H.B. No. 1848, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO EXCEPTIONAL TREES," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 750-04 (FIN) and H.B. No. 2741, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO EXECUTIVE DEPARTMENTS," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 751-04 (JUD) and H.B. No. 2458, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD WELFARE SERVICES," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 752-04 (JUD) and H.B. No. 2894, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO ACCESS TO REAL PROPERTY," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 753-04 (JUD) and H.B. No. 1743, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO LIGHT POLLUTION," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 754-04 (JUD) and H.B. No. 2290, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO DRIVER LICENSING," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 755-04 (JUD) and H.B. No. 267, 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 9, 2004.

Stand. Com. Rep. No. 756-04 (FIN) and H.B. No. 1103, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 757-04 (FIN) and H.B. No. 2455, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO HOME AND COMMUNITY-BASED SERVICES," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 758-04 (FIN) and H.B. No. 2520, 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 9, 2004.

Stand. Com. Rep. No. 759-04 (FIN) and H.B. No. 2961, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO ETHANOL," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 760-04 (FIN) and H.B. No. 2968, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO SOLID WASTE MANAGEMENT," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 761-04 (FIN) and H.B. No. 2034, HD 2, as amended in HD 3, entitled: "A BILL FOR AN ACT RELATING TO BIOPROSPECTING," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 762-04 (FIN) and H.B. No. 2611, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE ENTERTAINMENT INDUSTRY," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 763-04 (FIN) and H.B. No. 1634, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 764-04 (FIN) and H.B. No. 1374, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 765-04 (FIN) and H.B. No. 2657, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 766-04 (FIN) and H.B. No. 2873, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH SAVINGS ACCOUNTS," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 767-04 (FIN) and H.B. No. 2809, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HOTEL PROJECT TAX CREDIT," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 768-04 (FIN) and H.B. No. 1758, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO HOUSING PROJECTS," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 769-04 (FIN) and H.B. No. 2608, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TOURISM AUTHORITY," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 770-04 (FIN) and H.B. No. 2396, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL INVESTMENTS," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 771-04 (CPC/JUD) and H.B. No. 1839, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO PAIN PATIENT'S BILL OF RIGHTS," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 772-04 (FIN) and H.B. No. 2184, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF EDUCATION," were placed on the calendar for Third Reading on March 9, 2004.

Stand. Com. Rep. No. 773-04 (FIN) and H.B. No. 2002, 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 9, 2004.

ADJOURNMENT

At 12:00 o'clock midnight, the House of Representatives adjourned until 9:00 o'clock a.m., Tuesday, March 9, 2004.