

FORTY-SIXTH DAY

Tuesday, April 10, 2007

The House of Representatives of the Twenty-Fourth Legislature of the State of Hawaii, Regular Session of 2007, convened at 9:15 o'clock a.m., with the Speaker presiding.

The invocation was delivered by Ms. Tannya Kanei, legislative aide to Representative Yamashita, after which the Roll was called showing all members present.

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

GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 312 through 320) were received and announced by the Clerk:

Gov. Msg. No. 312, dated April 4, 2007, transmitting the Department of Accounting and General Services' Annual Report of the Stadium Authority – Stadium Special Fund for fiscal year ended June 30, 2006.

Gov. Msg. No. 313, informing the House that on April 9, 2007, the following bill was signed into law:

H.B. No. 1427, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES." (ACT 007)

Gov. Msg. No. 314, informing the House that on April 9, 2007, the following bill was signed into law:

H.B. No. 657, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WAIVER OF ABANDONED VEHICLE PUBLIC AUCTION REQUIREMENTS." (ACT 008)

Gov. Msg. No. 315, informing the House that on April 9, 2007, the following bill was signed into law:

H.B. No. 1108, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATUTORY REVISION: AMENDING OR REPEALING VARIOUS PROVISIONS OF THE HAWAII REVISED STATUTES AND THE SESSION LAWS OF HAWAII FOR THE PURPOSE OF CORRECTING ERRORS AND REFERENCES, CLARIFYING LANGUAGE, AND DELETING OBSOLETE OR UNNECESSARY PROVISIONS." (ACT 009)

Gov. Msg. No. 316, informing the House that on April 9, 2007, the following bill was signed into law:

H.B. No. 1138, entitled: "A BILL FOR AN ACT RELATING TO FIRE PROTECTION." (ACT 010)

Gov. Msg. No. 317, informing the House that on April 9, 2007, the following bill was signed into law:

H.B. No. 1158, entitled: "A BILL FOR AN ACT RELATING TO ARSON." (ACT 011)

Gov. Msg. No. 318, informing the House that on April 9, 2007, the following bill was signed into law:

H.B. No. 613, entitled: "A BILL FOR AN ACT RELATING TO VETERANS." (ACT 012)

Gov. Msg. No. 319, informing the House that on April 9, 2007, the following bill was signed into law:

H.B. No. 1204, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL PROCEDURE." (ACT 013)

Gov. Msg. No. 320, informing the House that on April 9, 2007, the following bill was signed into law:

H.B. No. 1393, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM INFORMATION PRACTICES ACT (MODIFIED)." (ACT 014)

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 529 through 559) were received and announced by the Clerk:

Sen. Com. No. 529, transmitting S.C.R. No. 53, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION ENCOURAGING THE USE OF COMPACT FLUORESCENT LIGHT BULBS," which was adopted by the Senate on April 5, 2007.

Sen. Com. No. 530, transmitting S.C.R. No. 108, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE UNITED STATES CONGRESS TO SUPPORT PASSAGE OF THE NATIONAL GUARD EMPOWERMENT ACT OF 2007," which was adopted by the Senate on April 5, 2007.

Sen. Com. No. 531, transmitting S.C.R. No. 135, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING EACH COMPLEX WITHIN THE DEPARTMENT OF EDUCATION TO STUDY THE AIR COOLING NEEDS OF THE SCHOOLS WITHIN THE COMPLEX AND TO REVIEW THE FEASIBILITY OF USING ALTERNATIVE AIR COOLING METHODS SUCH AS FANS, HEAT REDUCTION, INSULATION, AND ENERGY EFFICIENT INDIVIDUAL AIR CONDITIONING WALL UNITS," which was adopted by the Senate on April 5, 2007.

Sen. Com. No. 532, transmitting S.C.R. No. 137, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE UNIVERSITY OF HAWAII TO DESIGN A LONG-TERM COMPREHENSIVE FINANCIAL PLAN," which was adopted by the Senate on April 5, 2007.

Sen. Com. No. 533, transmitting S.C.R. No. 157, entitled: "SENATE CONCURRENT RESOLUTION E HO'OKIPA ANA I KA 'AHAHUI KAUMOKU'AINA NO KA HO'ONA'AUAO 'ILIKINI," which was adopted by the Senate on April 5, 2007.

Sen. Com. No. 534, informing the House that the Senate has disagreed to the amendments proposed by the House to the following Senate Bills:

S.B. No. 618, HD 1
S.B. No. 987, SD 1, HD 2
S.B. No. 1161, SD 1, HD 1
S.B. No. 1236, SD 1, HD 1
S.B. No. 1529, SD 2, HD 2
S.B. No. 1654, SD 1, HD 1
S.B. No. 1709, SD 1, HD 2

Sen. Com. No. 535, transmitting H.B. No. 1278, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL SITE CLEANUP," which passed Third Reading in the Senate on April 5, 2007.

Sen. Com. No. 536, transmitting H.B. No. 1377, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE HAWAII HEALTH SYSTEMS CORPORATION," which passed Third Reading in the Senate on April 5, 2007.

Sen. Com. No. 537, transmitting H.B. No. 15, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," which passed Third Reading in the Senate on April 5, 2007.

Sen. Com. No. 538, transmitting H.B. No. 18, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," which passed Third Reading in the Senate on April 5, 2007.

Sen. Com. No. 539, transmitting H.B. No. 24, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO TEACHERS," which passed Third Reading in the Senate on April 5, 2007.

Sen. Com. No. 540, transmitting H.B. No. 119, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL WATER SYSTEMS," which passed Third Reading in the Senate on April 5, 2007.

Sen. Com. No. 541, transmitting H.B. No. 149, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO DISASTER RELIEF," which passed Third Reading in the Senate on April 5, 2007.

Sen. Com. No. 542, transmitting H.B. No. 513, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GRANTS-IN-AID," which passed Third Reading in the Senate on April 5, 2007.

Sen. Com. No. 543, transmitting H.B. No. 575, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCIES," which passed Third Reading in the Senate on April 5, 2007.

Sen. Com. No. 544, transmitting H.B. No. 567, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR SPORTS FACILITY," which passed Third Reading in the Senate on April 5, 2007.

Sen. Com. No. 545, transmitting H.B. No. 598, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," which passed Third Reading in the Senate on April 5, 2007.

Sen. Com. No. 546, transmitting H.B. No. 767, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE RUNNING START PROGRAM FOR COLLEGE PREPARATION," which passed Third Reading in the Senate on April 5, 2007.

Sen. Com. No. 547, transmitting H.B. No. 869, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR A STUDY ON ENERGY EFFICIENT TRANSPORTATION STRATEGIES," which passed Third Reading in the Senate on April 5, 2007.

Sen. Com. No. 548, transmitting H.B. No. 1005, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC UTILITIES COMMISSION," which passed Third Reading in the Senate on April 5, 2007.

Sen. Com. No. 549, transmitting H.B. No. 1103, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ASIAN LUNAR NEW YEAR COMMEMORATION," which passed Third Reading in the Senate on April 5, 2007.

Sen. Com. No. 550, transmitting H.B. No. 1207, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DISHONORED PAYMENTS," which passed Third Reading in the Senate on April 5, 2007.

Sen. Com. No. 551, transmitting H.B. No. 1227, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR RISK MANAGEMENT," which passed Third Reading in the Senate on April 5, 2007.

Sen. Com. No. 552, transmitting H.B. No. 1289, H.D. 2, S.D. 3, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE

ENERGY," which passed Third Reading in the Senate on April 5, 2007.

Sen. Com. No. 553, transmitting H.B. No. 1338, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT MAKING EMERGENCY APPROPRIATIONS FOR THE DIVISION OF CONSUMER ADVOCACY," which passed Third Reading in the Senate on April 5, 2007.

Sen. Com. No. 554, transmitting H.B. No. 1372, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HEALTH FOR THE EMERGENCY MEDICAL SERVICES AND INJURY PREVENTION SYSTEM BRANCH," which passed Third Reading in the Senate on April 5, 2007.

Sen. Com. No. 555, transmitting H.B. No. 1403, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII PAROLING AUTHORITY," which passed Third Reading in the Senate on April 5, 2007.

Sen. Com. No. 556, transmitting H.B. No. 1452, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," which passed Third Reading in the Senate on April 5, 2007.

Sen. Com. No. 557, transmitting H.B. No. 1477, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO RURAL PRIMARY HEALTH CARE TRAINING," which passed Third Reading in the Senate on April 5, 2007.

Sen. Com. No. 558, transmitting H.B. No. 1529, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO LEGISLATIVE SCHOLARSHIP PROGRAMS AT THE UNIVERSITY OF HAWAII," which passed Third Reading in the Senate on April 5, 2007.

Sen. Com. No. 559, transmitting H.B. No. 1931, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR PROJECTS ON THE ISLAND OF HAWAII," which passed Third Reading in the Senate on April 5, 2007.

Representative Caldwell moved to disagree to the amendments made by the Senate to the following House bills, seconded by Representative B. Oshiro and carried:

H.B. No. 15, H.D. 2, S.D. 2
 H.B. No. 18, H.D. 1, S.D. 2
 H.B. No. 24, H.D. 1, S.D. 2
 H.B. No. 119, S.D. 1
 H.B. No. 149, H.D. 2, S.D. 2
 H.B. No. 513, S.D. 1,
 H.B. No. 575, H.D. 1, S.D. 2
 H.B. No. 567, H.D. 1, S.D. 2
 H.B. No. 598, H.D. 1, S.D. 1
 H.B. No. 767, H.D. 2, S.D. 2
 H.B. No. 869, H.D. 1, S.D. 2,
 H.B. No. 1005, H.D. 2, S.D. 1
 H.B. No. 1103, S.D. 1
 H.B. No. 1207, S.D. 1
 H.B. No. 1227, H.D. 1, S.D. 1
 H.B. No. 1289, H.D. 2, S.D. 3
 H.B. No. 1338, H.D. 2, S.D. 1
 H.B. No. 1372, H.D. 1, S.D. 1
 H.B. No. 1403, H.D. 2, S.D. 1
 H.B. No. 1452, H.D. 1, S.D. 1
 H.B. No. 1477, H.D. 2, S.D. 2
 H.B. No. 1529, H.D. 2, S.D. 2
 H.B. No. 1931, S.D. 1

ORDER OF THE DAY**COMMITTEE ASSIGNMENTS**

The following concurrent resolutions were referred to committee by the Speaker:

S.C.R.**Nos.****Referred to:**

60	Committee on Tourism & Culture
62, SD1	Committee on Economic Development & Business Concerns, then to the Committee on Finance
65	Committee on Tourism & Culture
89	Committee on Water, Land, Ocean Resources & Hawaiian Affairs, then to the Committee on Judiciary
102, SD1	Committee on Agriculture, then to the Committee on Consumer Protection & Commerce
103, SD1	Jointly to the Committee on Water, Land, Ocean Resources & Hawaiian Affairs and the Committee on Agriculture, then to the Committee on Finance
138	Committee on Transportation
155, SD1	Committee on Transportation, then to the Committee on Finance

COMMITTEE REASSIGNMENTS

The following resolutions and concurrent resolutions were re-referred to committee by the Speaker:

H.R.**Nos.****Re-referred to:**

161	Committee on Finance
163	Committee on Finance
186	Jointly to the Committee on Public Safety & Military Affairs and the Committee on Health

H.C.R.**Nos.****Re-referred to:**

203	Committee on Finance
205	Committee on Finance
229	Jointly to the Committee on Public Safety & Military Affairs and the Committee on Health

CONSENT CALENDAR**SUSPENSION OF RULES**

On motion by Representative B. Oshiro, 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.

At this time, the Chair announced:

"Members, at this time we are at Part I, Consent Calendar. Everyone knows about the Consent Calendar that is on your Order of the Day. You all realize that there will be no discussion as these items have been agreed upon by both the Majority Caucus and the Minority Caucus. These items have been placed on the Consent Calendar for Third Reading."

UNFINISHED BUSINESS

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1816) recommending that S.B. No. 1441, SD 1, as amended in HD 1, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1441, SD 1, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

Representative Shimabukuro submitted written remarks in support of the measure as follows:

"Mr. Speaker, I am in support of this measure. We often hear or read about cases of abuse where the victim is an individual receiving government assistance through a human service program, and is mistreated by the person or persons who are directly responsible for their care.

"It is even more deplorable when the victim is a minor or ward of the State of Hawaii. It is our responsibility to ensure safety for the infants, children, and youth of Hawaii who receive assistance through organizations approved by the Department of Human services.

"This bill amends section 346-17, Hawaii Revised Statutes, by including requirements to ensure that all providers require child abuse and registry checks in addition to other screening requirements and federal and State laws required by the State of Hawaii Department of Human Services."

The motion was put to vote by the Chair and carried, the report of the Committee was adopted and S.B. No. 1441, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CERTIFICATION OF CHILD PLACING ORGANIZATIONS, CHILD CARING INSTITUTIONS, FOSTER BOARDING HOMES, AND ADOPTIVE HOMES," passed Third Reading by a vote of 51 ayes.

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 1818) recommending that S.B. No. 1988, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1988, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HONEY," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1821) recommending that S.B. No. 17, SD 2, HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 17, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1823) recommending that S.B. No. 1315, SD 2, HD 1, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee

was adopted and S.B. No. 1315, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ACCESS HAWAII COMMITTEE," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1826) recommending that S.B. No. 139, SD 1, HD 1, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 139, SD 1, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

Representative M. Oshiro submitted written remarks in support of the measure as follows:

"Mr. Speaker, I am in support of this measure. This bill clarifies that the cigarette tax money earmarked to fund the Cancer Research Center of Hawaii, emergency medical services, trauma care, and community health centers shall be calculated on a per cigarette basis.

"This bill corrects a technical flaw in a law passed by the 2006 Legislature.

"Smoking is the largest cause of morbidity and mortality in the nation that can be easily prevented. Beyond harming individual health, use of tobacco in the United States costs about \$7.18 for each pack of cigarettes sold in terms of healthcare expenses and decreased worker productivity. In Hawaii, this amounts to \$526,000,000 in healthcare expenses and productivity losses.

"Smoking is also associated with cancer, heart disease, stroke, emphysema, bronchitis, low birth-weight babies, sudden infant death syndrome, increased frequency of colds and ear infections, and asthma. Asthma is the largest single cause of school absenteeism in the State.

"It has been estimated that a ten per cent increase in the price of cigarettes decreases the number of children who start smoking by three to seven per cent in the long-term. The estimated decrease for adults is three per cent. Tobacco taxes can be viewed as a user tax affecting 17.3 per cent of Hawaii adults who are smokers and who do not pay the full societal costs of their use of tobacco.

"Allocating a significant percentage of tobacco tax revenues to programs that strive to maintain Hawaii's health such as the Cancer Research Center of Hawaii, Hawaii's emergency medical services, critically needed trauma centers, and community health centers are the most appropriate and effective use of such revenues to help the greatest number of people."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 139, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CIGARETTE TAX," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1827) recommending that S.B. No. 820, SD 1, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 820, SD 1, entitled: "A BILL FOR AN ACT RELATING TO DEVELOPMENTAL DISABILITIES," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1828) recommending that S.B. No. 1968, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1968, entitled: "A BILL FOR AN ACT

RELATING TO THE HAWAII NATIONAL GUARD," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1835) recommending that S.B. No. 688, SD 2, as amended in HD 1, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 688, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1837) recommending that S.B. No. 1115, SD 2, as amended in HD 1, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1115, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PERINATAL CARE," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1838) recommending that S.B. No. 1282, SD 2, as amended in HD 1, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1282, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1844) recommending that S.B. No. 796, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 796, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CIVIL DEFENSE," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1845) recommending that S.B. No. 914, SD 2, as amended in HD 1, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 914, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MENTAL HEALTH ISSUES OF COMMITTED PERSONS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1847) recommending that S.B. No. 1174, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1174, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INCARCERATED PARENTS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1849) recommending that S.B. No. 840, as amended in HD 1, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 840, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

Representative Hanohano submitted written remarks in support of the measure as follows:

"I am 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 S.B. No. 840, HD 1, entitled: "A BILL FOR AN ACT RELATING TO KIKALA-KEOKEA," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1850) recommending that S.B. No. 870, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 870, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE DESIGNATION OF A HAWAII ARCHAEOLOGICAL DATA SURVEY," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1853) recommending that S.B. No. 1017, HD 1, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1017, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1857) recommending that S.B. No. 1008, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1008, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ANNUITIES," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1862) recommending that S.B. No. 810, SD 2, as amended in HD 1, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 810, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WAIMANO RIDGE," passed Third Reading by a vote of 51 ayes.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1870) recommending that S.B. No. 1515, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1515, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF TRANSPORTATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1872) recommending that S.B. No. 1459, SD 1, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1459, SD 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HEALTH FOR EARLY INTERVENTION SERVICES," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1874) recommending that S.B. No. 1499, SD 2, HD 1, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1499, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAX ADMINISTRATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1875) recommending that S.B. No. 678, SD 1, HD 1, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 678, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAX," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1878) recommending that S.B. No. 1170, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1170, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILDREN," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1879) recommending that S.B. No. 1113, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1113, SD 1, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

Representative Lee submitted written remarks in support of the measure as follows:

"Mr. Speaker, I am in support of this measure. Mr. Speaker, the 21st Century continues to bring us technologies that increase our capacity to do good in this world. As a State, we should incorporate new technologies into fields where the betterment of people will take place. One field where new technology can, and should be used is in the field of locating missing persons.

"Each year, Mr. Speaker, countless numbers of families grieve because of the lack of closure in cases that involve missing loved ones. This bill, Mr. Speaker, authorizes law enforcement agencies to use sophisticated technology and databases to solve missing persons and other cases. In addition, this bill protects our children and improves the State of Hawaii's existing procedures to locate missing persons.

"Through national databases and DNA, missing persons can be found faster and families can find closure sooner. I urge my colleagues to support this bill. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1113, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MISSING PERSONS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1880) recommending that S.B. No. 932, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 932, SD 2, HD 2, entitled: "A BILL FOR

AN ACT RELATING TO A COMPREHENSIVE OFFENDER REENTRY SYSTEM," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1883) recommending that S.B. No. 1924, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1924, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LANDS CONTROLLED BY THE STATE," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1895) recommending that S.B. No. 1222, SD 3, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1222, SD 3, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INCOME TAXATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1896) recommending that S.B. No. 1447, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1447, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

Representative Shimabukuro submitted written remarks in support of the measure as follows:

"Mr. Speaker, I am in strong support of SB 1447, SD 2. This bill would help subsidize the cost of third party reviews for building permits related to affordable housing projects.

"The City and County of Honolulu already has a program that allows certified third party reviewers to examine building permit applications on behalf of the City. By providing this service, permit processing is accelerated and we can break ground faster on affordable housing projects that are sorely needed in our State.

"This bill also has the support of the City and County of Honolulu's Department of Planning and Permitting, and the Hawaii Housing Finance and Development Corporation.

"I urge my colleagues to support this measure. Mahalo."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1447, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1897) recommending that S.B. No. 1352, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1352, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1898) recommending that S.B. No. 798, SD 3, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 798, SD 3, HD 2, entitled: "A BILL FOR

AN ACT RELATING TO DISASTER RELIEF," passed Third Reading by a vote of 51 ayes.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1902) recommending that S.B. No. 1603, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1603, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LIABILITY," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1905) recommending that S.B. No. 973, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 973, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC HEALTH," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1906) recommending that S.B. No. 1457, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1457, SD 2, HD 2, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR THE DEVELOPMENTAL DISABILITIES DIVISION OF THE DEPARTMENT OF HEALTH," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1907) recommending that S.B. No. 600, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 600, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LEASEHOLD CONVERSION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1908) recommending that S.B. No. 1184, SD 2, HD 2, as amended in HD 3, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1184, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO ADULT PROTECTION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1913) recommending that S.B. No. 1177, SD 2, HD 1, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1177, SD 2, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

Representative Cabanilla submitted written remarks in support of the measure as follows:

"I am in strong support of SB 1177 HD1.

"Our youth are the key to attaining the goal of world peace and productivity for future generations. Hawaii's location at the center of the Pacific and its diverse culture, with its many shared languages provide an excellent strategic forum for meetings and exchanges.

"The establishment of a Global Youth Center in Hawaii would create an international framework in which youth around the world can become actively engaged in the building of a better future. Such a center would offer the opportunity to identify global issues that would address and prepare future leaders to effectively communicate their concerns.

"The Global Youth Center will work in conjunction with Hawaii's educational, political and business leaders. It is hoped that the International Youth Lions Camp could also utilize this facility once it is made available. This is just one example of the many activities that could partner with the Global Youth Center."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1177, SD 2, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR A GLOBAL YOUTH CENTER IN HAWAII," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1914) recommending that S.B. No. 1382, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1382, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1915) recommending that S.B. No. 1383, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1383, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1916) recommending that S.B. No. 1384, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1384, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1917) recommending that S.B. No. 1386, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1386, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1918) recommending that S.B. No. 1387, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1387, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1919) recommending that S.B. No. 1388, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1388, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1920) recommending that S.B. No. 1391, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1391, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1931) recommending that S.B. No. 1916, SD 2, HD 2, as amended in HD 3, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1916, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO CAREGIVING," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1932) recommending that S.B. No. 1918, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1918, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII CHILDREN'S HEALTH CARE PROGRAM," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1935) recommending that S.B. No. 1182, SD 2, as amended in HD 1, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1182, SD 2, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

Representative M. Oshiro submitted written remarks in support of the measure as follows:

"Mr. Speaker, I am in support of SB 1182. This bill increases the personal needs allowance provided to individuals in care homes and nursing facilities from \$30 per month to \$50 per month. This allowance was set by the federal government at \$30 in 1988. States are allowed to supplement this payment as they see fit, provided the funding comes from State resources. The intent of providing this allowance to individuals is to provide for some of the most basic personal services like haircuts, toiletries, and other like purchases.

"There was considerable controversy regarding this bill and SB 427 during the hearing process in the Finance Committee. There was also some question as to the need for any statutory change to implement a program that already seems to have an infrastructure imbedded in the Department of Human Services.

"The ultimate goal, however, is to ensure that those who need support receive that support. Funding for this increase has already been included in the House draft of the State budget. I look forward

to working with my colleagues to find the most efficient and accountable way to provide this \$20 increase in the personal needs allowance."

Representative Cabanilla submitted written remarks in support of the measure as follows:

"I am in strong support of SB 1182, HD 1. The Social Security Administration requires a monthly charge to be set aside for social security recipients who reside in certain institutional care settings. The fee is applied to the individual's personal needs; such as clothing, toiletries, bus fares and other incidental day-to-day living expenses.

"Increases in cost of living demands an adjustment in the needs allowance to provide residents of long-term care facilities and community care-home residents an acceptable daily quality of life.

"The purpose of this Act is to enable the Department of Human Services to establish a needs allowance for persons residing in community care homes and other long-term care facilities."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1182, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO NEEDS ALLOWANCE," passed Third Reading by a vote of 51 ayes.

THIRD READING

S.B. No. 170, SD 1, HD 1:

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, S.B. No. 170, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAPTIVE INSURANCE COMPANIES," passed Third Reading by a vote of 51 ayes.

S.B. No. 1410, SD 1, HD 1:

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, S.B. No. 1410, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 51 ayes.

S.B. No. 1704, SD 1, HD 1:

Representative Caldwell moved that S.B. No. 1704, SD 1, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

Representative Cabanilla submitted written remarks in support of the measure as follows:

"I am in strong support of SB 1704, HD 1. The review and modification of the Condominium Regime Laws that have been codified has been long overdue. My district has 2/3rds residents living within condominiums. Clarity is needed and this bill provides that."

The motion was put to vote by the Chair and carried, and S.B. No. 1704, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS," passed Third Reading by a vote of 51 ayes.

S.B. No. 1229, SD 2, HD 1:

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, S.B. No. 1229, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SCRAP DEALERS," passed Third Reading by a vote of 51 ayes.

S.B. No. 1372, SD 1, HD 1:

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, S.B. No. 1372, SD 1, HD 1,

entitled: "A BILL FOR AN ACT RELATING TO THE MANAGEMENT OF FINANCING AGREEMENTS," passed Third Reading by a vote of 51 ayes.

S.B. No. 1947, SD 1, HD 1:

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, S.B. No. 1947, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR THE DEPOSIT BEVERAGE CONTAINER PROGRAM," passed Third Reading by a vote of 51 ayes.

S.B. No. 1504, SD 2, HD 1:

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, S.B. No. 1504, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRONIC FILING OF TAX RETURNS," passed Third Reading by a vote of 51 ayes.

S.B. No. 1839, SD 2, HD 1:

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, S.B. No. 1839, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAX SYSTEMS," passed Third Reading by a vote of 51 ayes.

At 9:20 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1441, SD 1, HD 1
 S.B. No. 1988, SD 1, HD 2
 S.B. No. 17, SD 2, HD 2
 S.B. No. 1315, SD 2, HD 1
 S.B. No. 139, SD 1, HD 1
 S.B. No. 820, SD 1
 S.B. No. 1968
 S.B. No. 688, SD 2, HD 1
 S.B. No. 1115, SD 2, HD 1
 S.B. No. 1282, SD 2, HD 1
 S.B. No. 796, SD 2, HD 2
 S.B. No. 914, SD 2, HD 1
 S.B. No. 1174, SD 1, HD 1
 S.B. No. 840, HD 1
 S.B. No. 870, SD 1, HD 2
 S.B. No. 1017, HD 1
 S.B. No. 1008, SD 1, HD 2
 S.B. No. 810, SD 2, HD 1
 S.B. No. 1515, SD 2, HD 2
 S.B. No. 1459, SD 1
 S.B. No. 1499, SD 2, HD 1
 S.B. No. 678, SD 1, HD 1
 S.B. No. 1170, SD 1, HD 1
 S.B. No. 1113, SD 1, HD 2
 S.B. No. 932, SD 2, HD 2
 S.B. No. 1924, SD 2, HD 2
 S.B. No. 1222, SD 3, HD 2
 S.B. No. 1447, SD 2, HD 2
 S.B. No. 1352, SD 2, HD 2
 S.B. No. 798, SD 3, HD 2
 S.B. No. 1603, SD 2, HD 2
 S.B. No. 973, SD 2, HD 2
 S.B. No. 1457, SD 2, HD 2
 S.B. No. 600, HD 2
 S.B. No. 1184, SD 2, HD 3
 S.B. No. 1177, SD 2, HD 1
 S.B. No. 1382, SD 1, HD 1
 S.B. No. 1383, SD 1, HD 1
 S.B. No. 1384, SD 1, HD 1
 S.B. No. 1386, SD 1, HD 1
 S.B. No. 1387, SD 1, HD 1

S.B. No. 1388, SD 1, HD 1
 S.B. No. 1391, SD 1, HD 1
 S.B. No. 1916, SD 2, HD 3
 S.B. No. 1918, SD 2, HD 2
 S.B. No. 1182, SD 2, HD 1
 S.B. No. 170, SD 1, HD 1
 S.B. No. 1410, SD 1, HD 1
 S.B. No. 1704, SD 1, HD 1
 S.B. No. 1229, SD 2, HD 1
 S.B. No. 1372, SD 1, HD 1
 S.B. No. 1947, SD 1, HD 1
 S.B. No. 1504, SD 2, HD 1
 S.B. No. 1839, SD 2, HD 1

Members, please remember to let the Clerk know which Senate bills on the Consent Calendar you will be inserting your comments on in the Journal. This must be done before the adjournment of today's Floor session. So that will probably be around 5:30 or 6:00 o'clock this evening."

At 9:21 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 9:47 o'clock a.m.

At 9:47 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 9:48 o'clock a.m.

At this time, the Chair stated:

"Please accept my apologies. At this time the Chair would like to announce for all of you in this Chamber, on page 10, Standing Committee Report No. 1820 will be placed at the end of the calendar because of a proposed floor amendment."

At 9:49 o'clock a.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 9:49 o'clock a.m.

The Chair then announced:

"Everyone is aware that on page 10, House Standing Committee Report No. 1820, S.B. 1803. There's a proposed floor amendment so it will be taken up at the end of the calendar.

"On page 13, House Standing Committee Report No. 1861, S.B. 12, another proposed floor amendment to be taken up at the end of the calendar. Please mark your pages, Members of the House.

"Moving on to page 14, House Standing Committee Report 1867, S.B. 1676, once more, end of the calendar with a proposed floor amendment.

"Page 19, House Standing Committee Report No. 1929, S.B. 1412, once more, end of the calendar with a proposed floor amendment.

"Also, on page 19, House Standing Committee Report No. 1937, S.B. 1792, end of the calendar, proposed floor amendment.

"Page 21, House Standing Committee Report 1814, S.B. 1882, end of the calendar with two proposed floor amendments.

"Page 21, once more, House Standing Committee Report 1815, S.B. 148, end of the calendar, another proposed floor amendment.

"Members of the House, if there are anymore proposed floor amendments, the Chair would like to receive it before 10:00 a.m. this morning so that we, this body, can run this House efficiently and properly and Members of the House can get back to their respective community meetings that they have on their calendars.

"One more time, for any additional proposed floor amendments, please submit it by 10:00 this morning. The reason why we are taking it up at the end of the calendar is because if you want to break for every floor amendment for 30 to 40 minutes, I am willing to do it if you are willing to do it. For every floor amendment, we'll call a recess, go into the Caucus rooms, and discuss the floor amendment.

"So, I'll give anyone here on this Floor, at this point in time this morning the opportunity to submit any more floor amendments so that you, the body of this House of Representatives, are aware of what we have on the Order of the Day with all of these end of the calendar floor amendments."

At 9:53 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 10:00 o'clock a.m.

ORDINARY CALENDAR

UNFINISHED BUSINESS

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 1817) recommending that S.B. No. 667, SD 3, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 667, SD 3, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MENTAL HEALTH COUNSELORS," passed Third Reading by a vote of 51 ayes.

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 1819) recommending that S.B. No. 1425, SD 2, HD 1, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1425, SD 2, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. I would like to disclose a potential conflict. Members of my family are in the contracting business," and the Chair ruled, "no conflict."

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

"And Mr. Speaker, on the underlying bill, I have reservations. I would like just like to note my reservations."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1425, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONTRACTOR LICENSING REQUIREMENTS DURING A STATE OF EMERGENCY OR DISASTER," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1822) recommending that S.B. No. 709, SD 2, HD 1, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 709, SD 2, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, I rise in support of this measure. Mr. Speaker, Alice in Wonderland said, 'If you don't know where you're going, any road will get you there.' So it goes with our economy. If you don't know where we're going, and then how we measure where we are, we're in trouble. And that's what this bill is all about. It's about metrics.

"This bill will measure our training in science, technology, engineering and math, STEM, as they are known as. It will also track, measure and report our capital investment, research, development and other indices of innovation. And as you know, we are trying to break out of our 'sand, surf, and sun' economy into an innovation economy.

"Today, Mr. Speaker, we have not done too much of a job and this bill brings it to the forefront. It is time to measure where we are and where we want to go. And the only thing missing in this bill, and it's one of the underlying points of my standing, is that you can't measure without money. This bill has a blank and it has a defective date. It needs \$250,000 and my point is to stand and encourage the Chair of Finance, as well as my colleagues on the Finance Committee, to make sure that we know where we're going and we measure it and we put in the \$250,000 for the first year, and I think the same amount for the next year. Thank you, Mr. Speaker."

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

Representative Ching rose in support of the measure and asked that the remarks of Representative Ward 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 S.B. No. 709, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC DEVELOPMENT," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1824) recommending that S.B. No. 1922, SD 2, HD 1, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1922, SD 2, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, with comments in the Journal, if I may. In strong support. This bill is the one that does three things creatively for our media, our film people. This is the creation of the Media Center at UH. It's for the incubator that is going to be created. And lastly, and most importantly, and the most excitingly is the MELE Program, the Music Experience Learning, and that's going to be where all of our talented musicians, in partnership with Belmont University of Nashville, will have a chance to put 'Nashville of the Pacific' in the midst of us right here in Hawaii, Mr. Speaker.

"So, I'm really excited about this. This is the future. This is part of what we're going to measure in the previous bill, and this is where we'll call all of our talent, our musicians and our actors to step forward and be part of this really creative program. Thank you, Mr. Speaker."

Representative Ward's written remarks are as follows:

"Mr. Speaker, I am in strong support of this measure. The proposals in this bill are key components in efforts to moving Hawaii forward toward embracing an economy based on innovation initiatives and policies. This measure appropriates funds for the creation of permanent facility for the Academy for Creative Media at the University of Hawaii.

"Since its humble beginning in January of 2004 with only a few students and two faculty members, the Academy for Creative Media has become the premier program for media study in Hawaii, having produced nine films and a collection of video game prototypes. The program now has 175 students.

"This stunning growth has resulted in some growing pains. The Academy has outgrown the small suite of offices it was provided in its initial stages. This has resulted in the faculty have to be placed in borrowed space in a different building. Moreover, there is no room for dedicated classrooms, workshops, labs, soundstage, and other important tool and space for creative media.

"The funds provided in this bill will answer these pressing needs by providing for a permanent facility that will allow the program to continue to grow and support the growing media industry in Hawaii.

"In recent years Hawaii has experienced a rapid growth in its film industry. With this growth, it is imperative that we focus on infrastructure that will expand local capabilities in the film and digital media sector. The Digital Media incubator facility proposed in this bill is an important step in our effort to grow Hawaii's film industry and will serve as a catalyst for startup, emerging and established firms in computer animation, visual effects, and interactive game development to move Hawaii towards a state-of-the-art cinema production center.

"Hawaii is blessed with having a number of talented young people wishing to pursue a career in digital media. However, the realities of the digital media industry demand some state support. This is because of the following factors:

- User-ready work spaces and facilities are needed for the local digital media sector to develop and grow.
- Because most digital media productions are project-based and short-term in nature, they can only lease commercial space for short periods of time.
- This is not profitable for the private sector to provide this space; therefore, a State supported user-ready digital media work space is needed to support and grow this industry.

"The range of digital media companies and projects that will be used by this center include: Digital and interactive game development; software design for mobile, web, PC, and other applications; television and feature film preproduction and post production; special FX, animation and sound design group; and design companies (graphics, art, architectural, engineering, medical).

"The key to helping these companies is provide a place to launch from for the first few years to help build these businesses.

"These types of firms offer good, high paying jobs that will not only help grow Hawaii's media industry but grow other areas of the economy as the employees of these companies will have more money to spend and grow Hawaii's economy.

"Mr. Speaker, this bill also embraces another concept originally proposed by the Governor, that of the music enterprise learning experience, or "MELE" for short. Hawaii is blessed with rich musical traditions that are found nowhere else in the world. This tradition has continued to grow as young musicians learn and perform Hawaiian music.

"In terms of economic growth, Hawaiian music has been identified as key industry sector. There is general recognition that the music has a large potential audience from all across the world. Hawaii has more than enough talented musicians to create and share this music with the world. The problem is that it lacks the support of infrastructure to assist individuals in the business side of the music world.

"In Committee, the Hawaii Musicians Union, the Hawaii Academy for Recording Arts and the Pacific Music Foundation have all indicated a need for programs that teaches business skills and knowledge to Hawaii's coming generations of musicians and entertainers. This measure recognizes this problem through the development of a support and training system called MELE (the Music Enterprise Learning Experience) program to develop the technical and business skills required for Hawaii's music industry grow and prosper.

"This program is modeled after the industry experience in Nashville, another area of the country with talented musicians with a unique musical sound. Belmont University was prominent in the musical development with Nashville and has agreed to share its experience and knowledge by being a partner for MELE.

"The potential for this program is very exciting for Hawaii. We can all recognize the success of Nashville and country music. This program has the opportunity to create something similar with Hawaiian music, and it should be supported.

"Mr. Speaker, our economy is changing rapidly. New technologies are being introduced every year. If we are to succeed in this economy, it is important that we embrace these changes, and prepare for the future. This bill will help us in that effort. Thank you."

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

"Thank you, Mr. Speaker. In strong support. As a former educator, I'm really excited about this measure. It's very 21st Century, as well as a clean industry; something that we should be investing in. We know that we're in a global village now, and we know that technology has taken us to this type of special industry and creativity, and I'm excited about the future that this holds for our children. Thank you."

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

"Thank you, Mr. Speaker. Short comments in support. I'm really in support of the MELE Program and excited to learn about what has been going on at Honolulu Community College and the support of this bill means a lot to that program."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1922, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CREATIVE MEDIA," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1825) recommending that S.B. No. 53, pass Third Reading.

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

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

"Thank you, Mr. Speaker. I'm rising in support with some strong reservations. The purpose of this bill is to expand health insurance services by including marriage and family therapy in the substance abuse and mental illness treatment benefits. My concern is that

according to our statutes, 23-51, before any legislative measure that mandates health insurance coverage for specific health services, specific diseases or for certain providers of health care services as part of an individual or group health insurance policies can be considered, that's before this bill should be considered, there should be a concurrent resolution passed requesting the Legislative Auditor to prepare and submit to the Legislature a report that assesses both the social and financial effects of the proposed mandated coverage.

"So, my problem with this is, we have put the 'cart before the horse'. We should be passing a resolution before we take this step to pass this bill. Thank you."

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

"Thank you, Mr. Speaker. I rise with support with reservations, as well. My reservations are the same as the previous Representative from Kahaluu. I would like to say, though, that this is a very important bill; that when we're affected by drug addiction within our homes, it is very important to address how it affects the rest of the family. I've been able to witness that in the kids in our neighborhood, as well as our community. So, the importance of the bill, it is very important. It's just that we have to be mindful of our process. Thank you."

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

"Thank you, Mr. Speaker. In support. Mr. Speaker, we already know that Hawaii has a major ice problem, but I think more attention needs to be brought up about people that suffer from what's termed, dual diagnosis. This is when an individual suffers from both a mental health condition, as well as a substance abuse disorder. Many of our citizens and residents that suffer from schizophrenia or bipolar, anti-social personality disorder or suffer from depression often go into using hard core drugs – crystal meth, cocaine, ecstasy. This exacerbates their situation and it puts a great deal of stress and pain to their family. It will cause break-ups in marriages and you'll see a family just disintegrate.

"This will help, as it will allow for a family therapist to intervene. They will meet and provide the family with guidelines to follow, possibly saving a break up of the family and saving marriages. Keep in mind, love is not enough. Although it is a very important aspect of family and marriage, this is not enough, because they are not equipped with the tools to deal with people that may suffer from mental disorder or also drug addiction. Because this is so important, I think that marriage and family therapists should be able to play an important role and be covered by health insurance so that we can protect our families, as well as our marriages. For those reasons, I stand in support of this measure. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 53, entitled: "A BILL FOR AN ACT RELATING TO MARRIAGE AND FAMILY THERAPISTS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1829) recommending that S.B. No. 1228, SD 1, HD 1, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1228, SD 1, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

Representative Awana's written remarks are as follows:

"Mr. Speaker I am in support. The historical preservation of our Japanese internment camps in Hawaii is a very important part of our heritage. In particular, the Honouliuli Internment Camp located on the West side of Oahu not only imprisoned Japanese, but those of German and Italian ancestry.

"The location of the camp was isolated – bordered by cane fields and high brush. Because of this, everyone worked together to make the best of a bad situation. The guards collaborated with prisoners; exchanging food items for example, fish for meat, and potatoes for rice. Pleasantries were exchanged between prisoners and guards. Awards were also given to this camp due to excellent condition of this site which was kept clean and tidy. Interestingly enough, military personnel would look forward to visiting Honouliuli camp. These actions were unprecedented in other internment camps outside of Hawaii.

"I support whatever efforts will be implemented to preserve these valuable historical monuments – not only for their historical importance, but also for the aloha spirit that was shared by those who resided there. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In support. This measure would help our children once again to not only be aware of their past, but hopefully learn from the past. There is nothing like an experiential museum which a child walks into and experiences a concept. I think it's the way we reach children. I think this is a good thing because we learn from our past and, hopefully, we'll live up to our obligation to the future. Thank you."

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

"Mr. Speaker, I rise in strong support of this measure. I would like to speak on behalf of the Ewa Historical Society. The Ewa Historical Society has been around for over 25 years, Mr. Speaker, and right now they are having a renaissance. They want to bring up all the historical places in Ewa. And there is a Japanese internment camp in my district, and one of their goals is to be able to have historical tours linking the bunkers in Waipahu, the World War II bunkers, this internment camp, the Ewa Cemetery, the Ewa Mansion, and the OR&L Train Depot. We hope that with all these facilities being fixed we can contribute to the tourism industry by having heritage tours in our district. So, I urge all my colleagues to support the efforts of the Ewa Historical Preservation Society. Thank you."

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

"Mr. Speaker, just very briefly, in support. I wanted to point out that there had been a camp, a temporary relocation camp in Honouliuli, near Pearl Harbor, in the previous speaker's district, and that there were 1,551 people – Japanese, Italians, Germans – incarcerated there at the start of World War II. And thanks to President Bush and his leadership, we have several million dollars to restore about ten of the permanent internment camps that housed 120,000 Japanese in the '40s. Not all will be restored, but, hopefully, we will be able to capture some of those funds to restore whatever is left Honouliuli, or somehow have some way to keep the memory alive of what happened during World War II. Thank you very much."

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

"Thank you, Mr. Speaker. I'm in strong support as well. This measure would actually allow for a study on how best to honor this part of our history and remember it. Having also, as part of my district, a former internment camp, I certainly support this measure. Mr. Speaker, I'd like to insert written comments."

Representative Manahan's written remarks are as follows:

"Mr. Speaker, this measure is long overdue. Although much is made of the injustices in other countries, the atrocities committed by other nations, it is perhaps most instructive to examine our own actions in time of war. America is at a parallel juncture to World War II. By recognizing and acknowledging our actions, we can learn from them, and better our behavior in the current situation.

"This measure is timely in that it helps us utilize available federal funds. This bill also will help recognize one such camp in the 29th District, the Sand Island Internment Camp. The unpleasantness in our society helps define our character, and should never be forgotten. This bill will help us decide, in a culturally appropriate and sensitive manner, the best way to remember. Therefore, I support this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1228, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HISTORICAL PRESERVATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1830) recommending that S.B. No. 98, SD 1, as amended in HD 1, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 98, SD 1, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

Representative Awana's written remarks are as follows:

Mr. Speaker, I am in support with reservations. As we are all aware, the efforts of our educational system should always be centered on the students. The foremost importance is that of health and safety. Should this bill move forward, a major concern is the possible elimination of the health nurse position in schools when a principal is faced with deciding between a teacher and a health nurse due to budgetary constraints. Thank you Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 98, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Carroll voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1831) recommending that S.B. No. 686, SD 1, as amended in HD 1, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 686, SD 1, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. I'm rising in support, but with some reservations. I realize that we have not come to the end of the Legislature, so this will be looked at carefully. This bill is related to educational assistants and putting them on a career ladder program. But as I recall, the appropriation was like \$9 million and another higher figure. It is a lot of money that was being required to do this, and that's my concern. I think that after Crossover and looking at the budget, all these things will be flushed out. 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. 686, SD 1, HD 1,

entitled: "A BILL FOR AN ACT RELATING TO EDUCATIONAL ASSISTANTS," passed Third Reading by a vote of 51 ayes.

At 10:15 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 667, SD 3, HD 2
 S.B. No. 1425, SD 2, HD 1
 S.B. No. 709, SD 2, HD 1
 S.B. No. 1922, SD 2, HD 1
 S.B. No. 53
 S.B. No. 1228, SD 1, HD 1
 S.B. No. 98, SD 1, HD 1
 S.B. No. 686, SD 1, HD 1

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1832) recommending that S.B. No. 1931, SD 2, HD 2, as amended in HD 3, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1931, SD 2, HD 3, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. In regards to Stand. Com. Rep. No. 1832, I'd like to just give short comments. In support. Of course, we're in support of workforce development and this working group. The short comment that I have is just in regards to possibly of looking at, during Conference Committee, of moving this from DLIR to DBEDT in order for them to look to our future workforce. This would be a better fit. Thank you."

Representative Evans rose in support of the measure with reservations, and asked that the remarks of Representative Finnegan 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 S.B. No. 1931, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1833) recommending that S.B. No. 990, SD 2, HD 2, as amended in HD 3, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 990, SD 2, HD 3, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. I'm rising in support with reservations. This is the bill, Relating to Petroleum Industry Monitoring. This would give the PUC broad new powers to investigate companies that should not be within the Public Utilities Commission's purview because the companies they will be investigating are neither public nor utilities.

"This bill was passed and moved along in sort of in conjunction with the gas cap and with an effort for transparency. The refiners already do a great deal of reporting to the federal government and I'm not sure that we're going to find out anything new and the way this bill is at this present time there's absolutely no money in there. The PUC has stated that they can do this work, but they must have at least, I think \$1 million, \$1.5 million each year in order to hire the personnel and to have the expertise so that they can do what we're asking them to do. Thank you."

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

"Thank you, Mr. Speaker. Just a comment in support. I just wanted to make sure, just a friendly reminder to the people that are sitting on this Committee that last year we passed it out with no money. So let's not forget to put money in this time. 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. 990, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO PETROLEUM INDUSTRY MONITORING," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1834) recommending that S.B. No. 1026, SD 2, HD 2, as amended in HD 3, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1026, SD 2, HD 3, pass Third Reading, seconded by Representative B. Oshiro.

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

"I rise with reservations. The main reservation has to do with the larger size containers. But there's also a good measure in here. Thank you."

Representative Meyer rose in opposition to the measure, 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 am in opposition to SB1026, SD2, HD3, which would increase the size of containers subject to the bottle bill from 64 ounces to 68 ounces. I have always opposed the bottle bill, because what we should be doing is something other states moved to years ago -- comprehensive recycling of paper, tin, plastic, glass, cardboard, etc. with home pickup. I also feel the bottle bill is essentially a tax that supports the infrastructure and bureaucracy to run this inefficient program.

"This tax was sold to consumers under the false premise that it would substantially decrease the volume of waste going into our landfill, when in fact the percentage of the waste stream diverted from landfills as a result of this tax is in the very low single digits. The benefits of slightly extending the life of our current landfill are greatly outweighed by the substantial direct and indirect costs imposed upon our citizens by this law. Thus, I oppose expanding this insidious tax to include ever larger beverage containers, thus extracting even more taxes from our beleaguered citizens."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1026, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO SOLID WASTE," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Finnegan and Meyer voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1836) recommending that S.B. No. 1154, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1154, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. Just short comments with reservations for Stand. Com. Rep. No. 1836. In regards to the blank

authorization, it used to have \$100 million in there and that gave us some direction as to what we were thinking of in regards to these projects. However, now there's a blank amount and therefore, no direction. And if Budget and Finance and just having that coordination so that they can be able to understand what they're exposing the State to, financially. Thank you."

Representative Ching rose in support of the measure with reservations, and asked that the remarks of Representative Finnegan 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 S.B. No. 1154, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Herkes voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1839) recommending that S.B. No. 1672, SD 2, HD 2, as amended in HD 3, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1672, SD 2, HD 3, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. In support. Mr. Speaker, currently, there is inadequate payment reimbursement for Medicaid which has actually compromised access to medical care. It should be noted that this not only for the uninsured and those covered by Medicare, but also for the individuals who also get health care from private companies.

"I note that on December 2006, LRB provided a report on Medicaid payment and reimbursement rates, and the conclusion was that providers often receive insufficient payments for healthcare from government programs. In fact, the Healthcare Association of Hawaii even went further and stated that the disparity between payments and actual cost was one of the reasons we suffer a health care crisis in Hawaii. Our doctors are leaving. We have a nursing shortage. In fact, our Neighbor Island specialists are in demand. We just don't have enough orthopedic specialists on the Neighbor Islands.

"I truly believe that healthcare should not be a privilege, but a right for all of our residents in the State of Hawaii. So, for those reasons, I stand in support for this measure. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I rise in support with some reservations. In regards to the Representative from Kalihi, I'd like to adopt his words, but also add some reservations as to what are the implications this bill may have.

"Currently, this bill creates a disparity for reimbursement rates retroactive and prospective for Medicaid only, not QUEST. So, this is the fee for service part. Specifically, this bill changes the current Medicaid only, not for QUEST, to increase Medicaid reimbursement rates to 100% of the Medicare reimbursement rates. Secondly, it amends the Medicaid fee schedule to require an annual inflation adjustment. And thirdly, it appropriates funds to adjust retroactively for inflation for Medicaid. Again, all of this for Medicaid only, the fee for service, and not for QUEST.

"The total amount for this for Medicaid only, not for QUEST, is \$58 million plus, and additional federal funds will be about \$40 million plus. But the thing that I would like to point out are more that QUEST and Medicaid are scheduled to merge in 2008, which means additional funds will be needed aside from what I've

mentioned so far to bring reimbursement rates up. Also, after the reimbursement increases for inflation, that there's no federal matching funds to the extent that the rate paid exceeds the Medicare rate. So that's some reservations that we need to look forward to because they have major fiscal implications to them. Thank you."

Representative Awana rose in support of the measure and asked that the remarks of Representative Mizuno 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 S.B. No. 1672, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1840) recommending that S.B. No. 1917, SD 3, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1917, SD 3, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, in strong support. Mr. Speaker, this bill includes a provision that requires counties to expedite the implementation of Act 310 from last Session, Relating to Indigenous Architecture. The Act was created to encourage the building of traditional *hale* and *halau* for residences and structures by requiring the counties to amend their county building codes that often serve to discourage and prevent such practices.

"To date, only Maui County has adopted rules for indigenous structures, and no counties have adopted rules for indigenous residences in accordance with Act 310. The provisions in S.B. 1917 require the counties to expedite implementation of the Act in a timely manner. By allowing full functionality of Act 310, we can help provide alternative types of housing to meet the current crisis in our State while preserving and perpetuating this ancient Hawaiian practice. Mahalo."

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

"I'd just like to declare a potential conflict. I work for a homeless shelter and I understand some amendments are working to assist homelessness," and the Chair ruled, "no conflict."

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

"Mr. Speaker, a couple of comments with reservations and comments to be inserted in the Journal if I may. My first reservation is that I'm not sure the counties are going to be very happy, or the developers were actually going to allow this thing to work.

"And the second comment is that the great part of the bill is regarding the Rental Housing Trust Fund, which, as we all know, we took the money out and it's broke. So the greatest thing and the greatest encouragement to the Finance Committee would be to put in the blank where it says the percentage that will go to the Rental Housing Trust Fund. If we can put that to 65%, we can get people back into rental housing because there's such a crisis going on right now. Thank you, Mr. Speaker."

Representative Ward's written remarks are as follows:

"Mr. Speaker, I am in support of Senate Bill 1917 SD3 HD2 the Senate Majority Housing Omnibus Bill.

"This bill will increase the percentage of the conveyance tax allocated to the Rental Housing Trust Fund to provide consistent funding which is critical for developers to build more affordable housing here in Hawaii. The Governor highlighted increasing the percentage of conveyance tax into the Rental Housing Trust Fund this year in her State of the State speech. This Fund helps finance the construction of affordable rental apartments, an integral component in trying to address the issue of affordable housing. Because of past raiding by Democratic Legislatures, this Fund is in need of a cash infusion and this method of funding appears appropriate.

"However, we all know that that the government cannot build all of Hawaii's housing needs no matter how much money we throw at the problem. That is why we must produce public-private partnerships with our local contractors. This bill appropriates funds so the State can form public-private partnerships with private and non-profit builders for construction of 4,000 affordable housing units.

"We also must make sure that we use all the funds available to us from the federal government. I was glad to see that that the Finance Committee included language that would allow Hawaii to maximize the amount of federal dollars we can receive. We must be aggressive in pursuing affordable housing here in Hawaii.

"In closing Mr. Speaker, this bill is a good start for providing affordable housing in Hawaii. I hope this legislative body will now look into removing our many regulatory barriers for developers so the appropriations in this bill will produce the maximum amount of good for the people of Hawaii. Being homeless should never be the price for living in paradise. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1917, SD 3, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1841) recommending that S.B. No. 1284, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1284, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, in regards to Stand. Com. Rep. No. 1841, I'd like to give short comments and strong support. Mr. Speaker, your Minority Caucus had a bill similar to this that just basically starts to address the unfunded liability, and we stand very strong on that. 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. 1284, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1842) recommending that S.B. No. 1833, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1833, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FAMILY LEAVE," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Evans, Marumoto and Meyer voting no.

At 10:28 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1931, SD 2, HD 3
 S.B. No. 990, SD 2, HD 3
 S.B. No. 1026, SD 2, HD 3
 S.B. No. 1154, SD 2, HD 2
 S.B. No. 1672, SD 2, HD 3
 S.B. No. 1917, SD 3, HD 2
 S.B. No. 1284, SD 2, HD 2
 S.B. No. 1833, SD 1, HD 1

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1843) recommending that S.B. No. 1950, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1950, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, this bill is S.B. 1950, S.D. 2, H.D. 2. With reservations, Mr. Speaker. And my reservations are basically that we can do a little more to help out this situation. This bill should be amended in Conference Committee to include rehired, retired public employees who work more than 50% of the time, but less than 100% of the time, and they're hired for more than 89 days."

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

"Thank you. On the same measure as Stand. Com. Rep. No. 1843, S.B. 1950, with reservations. I also have some concerns that I hope gets worked out in Conference. We're looking at potentially a crisis in certain areas, and so this is a way to fill the void and rehire. My only concern is it's supposed to be for hard-to-fill positions. I'd like to make sure that these positions are 'at will'. And that when these retirees come back to work, as you will note in the bill, it says they're covered by the union. They will become union members.

"I just want to make sure that the people moving up the ladder, that we have good jobs for our young people and they have ability to move up. Maybe they need to go back to school so they can quality to move up their career ladder, but I don't want some of these retirees to come back. I do want them to come back, but also if people, if there is a pool of people to choose from, I think management should be able to say it's no longer a hard-to-fill position. We have people to fill it. So I just don't want them coming back and we don't have an out where we can ask them to leave. Thank you."

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

"Thank you, Mr. Speaker. In strong support. For the benefit of the prior speaker, this bill was actually amended to ensure that those that are being rehired are only for those critical, hard to fill, or labor shortage positions, and that's on page 2, line 7. In addition to that, to discourage any people taking early retirement, this bill also includes a provision that a retiree must retire and stay out of the position for at least one year before qualifying to be rehired."

Representative Ching rose in support of the measure with reservations, and asked that the remarks of Representative Evans 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 S.B. No. 1950, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE RE-EMPLOYMENT OF RETIREES," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1846) recommending that S.B. No. 917, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 917, SD 1, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. I rise in support with some reservations. This appropriates funds to the Department of Public Safety to develop a plan to return all female prisoners incarcerated in mainland prisons back to Oahu, and I am definitely in support of that goal.

"The only thing that I have some concerns on is basically there's a hard and fast date of being able to do this by July 1, 2009. To be able to put that into legislation when we're still trying to develop a plan, to me, would be kind of a difficult thing to do. We have to understand how much money we need in order to do that, and what PSD needs to do in order to get there. So, I think in putting a plan together and then making a timeline according to that, instead of a hard and fast July 1, 2009, which is a little over two years away. 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. 917, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1848) recommending that S.B. No. 880, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 880, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE MUSEUM OF HAWAIIAN MUSIC AND DANCE," passed Third Reading by a vote of 51 ayes.

Representatives Herkes and Waters, for the Committee on Consumer Protection & Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1851) recommending that S.B. No. 188, SD 2, HD 1, pass Third Reading.

Representative Caldwell moved that the report of the Committees be adopted, and that S.B. No. 188, SD 2, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, brief comments with comments requested to be put in the Journal. I'm in strong support because this is a bill that is good news for the small business community. This is the Small Business Regulatory Flexibility Act and is a direct result of a White House Conference on Small Business, I believe, under President Clinton in the early '90s followed by the Hawaii State Congress where every island, and every association had input into this creation.

"Basically, this bill clarifies when the rules are made for the regulation of small business, there's actually a feedback mechanism and a review process that the small business community is very excited about. This is a very good bill with good news for the small business community. Thank you, Mr. Speaker."

Representative Ward's written remarks are as follows:

"Mr. Speaker, I am in support of this measure. This bill was originally introduced by the Senator from Hawaii Kai. The purpose of the measure was to clarify the Small Business Regulatory Flexibility Act.

"It would achieve this purpose by providing that a small business impact statement will be prepared and submitted to the Small Business Regulatory Review Board as early as practicable in the rule drafting process, providing that adopted rules affecting small business will be reviewed to determine if they are still appropriate within five years after adoption, and making nonsubstantive changes to Chapter 201M, HRS, to clarify the definition of a rule and to remove outdated sections of the chapter.

"The bill was amended a few times and in its present form it does the same basic thing, but it goes a little further in that it asks the Board to review all new rules, not only the ones they think should be reviewed, and asks that the Board would inform small businesses whose complaints that have not been upheld, that the business may submit a complaint to the Ombudsman. Some other points about the bill.

- It clearly sets forth when a small business impact statement is to be submitted to the Small Business Regulatory Review Board during the drafting phase for new and changed administrative rules.
- It adds review of new changed rules to the list of the Board's "powers" that were focused on existing rules.
- It requires a draft to be sent to the Board which are essentially complete, encouraging a dialogue between the drafting agency and the Board before it is sent to the Governor and for public hearing.
- It requires agencies to submit rules to the Board every odd year for review and for the board to review them and submit a report of the results to the Legislature.
- It allows a small business to petition the rule making agency objecting to the impact of a rule. If the agency doesn't make changes, the Board will consider the merits of the petition. If the Board does not recommend the small businesses changes, then the Board should tell the petitioner that they can submit their complaint to the Ombudsman.

"In closing, Mr. Speaker, these changes will continue to ensure and allow that our smallest firms have a voice in ensuring that Administrative Rules are not overly burdensome, while regulatory agencies can still provide for consumer, environmental, and workplace safety considerations as they carry out their responsibilities."

Representative Meyer rose in support of the measure 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 strongly support SB 188, SD2, HD1, which modifies the Small Business Regulatory Flexibility Act by improving the procedures by which rules that impact small businesses are reviewed. This bill would increase the probability that proposed rules that would adversely impact small businesses would be caught early in the process and modified so as to minimize or eliminate the unintended consequences. Since small businesses are the economic engine that drives most of our state's economy, we need to be diligent in protecting them."

The motion was put to vote by the Chair and carried, and the report of the Committees was adopted and S.B. No. 188, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE SMALL BUSINESS REGULATORY FLEXIBILITY ACT," passed Third Reading by a vote of 51 ayes.

Representative Tsuji, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 1852) recommending that S.B. No. 1943, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1943, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you. Mr. Speaker, I'm rising to speak against this measure. Mr. Speaker, this bill, S.B. 1943 will add biofuel processing facilities to the list of permitted uses for agricultural lands. I think we all need to pay particular attention to this, because I think that making the bioprocessing plants a permitted use is far too broad.

"For example, this bill will allow buildings, storage sheds, silos, parking lots, administrative offices, all of these associated with the biofuel processing facility itself. This can certainly use up prime agricultural land for more industrialized purposes and really cause a negative impact.

"Another concern is that the private agricultural land is exempt from Chapter 343, our environmental disclosure statute. So I think there are some issues that we need to look at as this goes forward. I believe one of the counties suggested that the special use permit process be used instead, so that process has a lot more protections than just saying right off the bat, this is a permitted use. Thank you."

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

"Mr. Speaker, in support. If you think back to the days when sugar was king and pineapple was queen, you had the refineries on ag land in all the rural communities. And it was regulated by the EPA and environmental laws. If we're going to see us remain committed to alternative energy and finding energy independence with biofuels, these facilities have to be close to where the crops are grown just like they were for pineapple and sugar. Therefore, it's a good bill and deserves our support. Thank you."

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

"Thank you, Mr. Speaker. I stand in support, but do recognize that this measure needs to be massaged a little bit. What we would like to do is tie the cultivation of fuel crops to the processing of fuel crops on agricultural lands. There are some interstate commerce issues regarding that and how to word it, but we do recognize that there should be some tie-in with crop cultivation, as well with the production of biofuels. Thank you."

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

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

"Thank you, Mr. Speaker. I, too, would rise in support of this measure. This measure addresses our over-dependence on petroleum by encouraging the production and use of biofuels and energy feed stock in Hawaii. This is consistent with our mission to safeguard our State's agricultural lands.

"This measure would encourage further agricultural productivity of IAL designated lands by adding biofuel processing facilities to the list of permitted uses of ag lands. Additionally, the measure would encourage us to make greater use of our State's many untapped renewable energy sources by establishing an energy feedstock program in the Department of Agriculture. This program would in turn encourage energy feedstock production and establish core

objectives and milestones governing that production to meet Hawaii's energy requirements. Thank you, Mr. Speaker."

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 am in support of SB 1943, SD2, HD2, which adds biofuel processing facilities to the permitted uses of agricultural lands. It is ironic that many of the environmental lobbyists who have been pushing for renewable energy would oppose this bill on the grounds that it would convert some tropical forests to farmland. You can't grow renewable fuels without using land – it's that simple. And, it doesn't make economic sense to situate processing plants far away from the crops being harvested, as any former plantation manager could tell you. So, if you're opposed to both fossil fuels and renewable crops, what is left? Giving up cars entirely? While that might please a handful of radical environmentalists, the overwhelming majority of our citizens recognize that our industrial civilization would collapse without motor vehicles, and do not support going back to horse and buggy days."

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

"Thank you, Mr. Speaker. I am rising in support with reservations, as well, and I'd like the words of the Representative from Kauai entered as my own. In addition, I'd like to add my comments to make sure that in this bill, there is specification that, as the Chair of Ag suggested, the feed stocks are from Hawaii sources and included because that seems to be missing. 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. 1943, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ENERGY," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Thielen voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1854) recommending that S.B. No. 795, SD 2, HD 1, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 795, SD 2, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. I'm rising in support with some reservations. This bill would create a State Building Code Council to establish an updated comprehensive statewide model building code and design standards. My concern is that building codes have always been handled by the counties. I think that's appropriate. I'm a little bit concerned about this may be creating a new mini bureaucracy.

"I note that they were asking for \$500,000 a year, so we have to have somebody in charge of this. I think the council members, which there would be nine to start off with, are not paid. But it looks like so many things we have which is a duplication of effort, and that doesn't seem like the most efficient way to operate. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In strong support. Mr. Speaker, we can't get the county councils to update the building codes. The County of Hawaii's is since 1991. A lot of things have happened since then. It's important that we have a statewide building code.

"I've had members of county councils from both the Big Island and Oahu saying, 'Take it off our backs because we don't want to have to deal with it.' In this bill, we are giving the counties the ability to conform to certain disasters that might strike those islands, for example, hurricanes on Kauai and earthquakes on the Big Island. Again, in strong support."

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

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

"Thank you, Mr. Speaker. Stand. Com. Rep. No. 1854 regarding building codes. I stand strong in support of this measure. This bill is about time for us, especially for the different counties we have. This will help construction. Each county has their own regulation that we have to go through. I know we're talking about streamlining a lot of things. Right now we have a construction boom. If we're going to impede the progress, whether it has to do with homeless or other situations, we need to help the counties. This is one way for us to have a uniform code which will help the process. So I stand in strong support, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 795, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BUILDING CODES," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1855) recommending that S.B. No. 662, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 662, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO IMPORTANT AGRICULTURAL LANDS LOAN GUARANTY," passed Third Reading by a vote of 51 ayes.

At 10:42 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1950, SD 2, HD 2
 S.B. No. 917, SD 1, HD 2
 S.B. No. 880, SD 2, HD 2
 S.B. No. 188, SD 2, HD 1
 S.B. No. 1943, SD 2, HD 2
 S.B. No. 795, SD 2, HD 1
 S.B. No. 662, SD 2, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1856) recommending that S.B. No. 1066, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1066, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. I'm rising in support with some reservations. As you now, this bill is about helping the State fight against invasive species. The bill will require the Department of Agriculture to create a schedule of fees for pest inspection, quarantine and eradication. It also instructs the Department to add late fees and other fees to a special fund.

"To add some of my objections, Mr. Speaker, my comments are not about opposition to fighting against invasive species. In fact, I'm all for that. My objection is how we're going about it. It would seem

to me that if this is such a big problem and listening to farmers and others on the Neighbor Islands and Oahu, I believe it is a big problem, then we should be appropriating enough money out of the general fund to combat this problem.

"Additionally, there are federal funds for this program. Are these funds in jeopardy? Do we know the answer? Should we get the answer? Do we even care? Maybe we shouldn't set up a new fee schedule until we find the answers to our questions. Maybe we should appropriate enough funds from our big surplus right now to make sure we have enough funds to fight the problem. This sounds reasonable to me. I hope it sounds reasonable to some in this body, and I hope we get answers to our questions and we come with reasonable solutions before this bill has made it all the way through the Conference Committee process.

"The people in our State who make their living in the agricultural industry, deserve this. They deserve the very best from us. Let's get it done. It's very critical. My concern is with the new fees that will be charged on almost everything that is shipped in here. There were a lot of different groups that had concerns about this. Any time shipping has a new fee, they're going to add it to the cost of goods they bring in, which means you and I, everyone in this State, will pay more for the things that are shipped in here for us to purchase. Thank you, Mr. Speaker."

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

"Thank you very much, Mr. Speaker. In opposition and I would like to adopt the words of the prior speaker and insert them into the Journal as if they were my own. Part of what the prior speaker said was that who's going to pay for this? Essentially, we are. Our neighbors and our families in the form of a higher cost of living.

"What's being proposed here is a good idea except for the part where the source of the money to combat invasive species. The issue of the problem of invasive species in the State of Hawaii is coming from the importers instead of the exporters. We cannot do anything about the exporters through State laws. This is a federal issue. It is an interstate commerce issue. We must encourage our national delegation to change laws so that those people who import and export products, and bring them into the State of Hawaii, will be the responsible party for paying for the cost of the prevention of invasive species, in fighting invasive species in the State of Hawaii.

"We're doing what we can by funding programs in the State of Hawaii with general funds to combat the existing problem as we see today. However, obviously, that is not enough. The plants in Lake Wilson are an example. The coqui frog program in Hilo and the Big Island is another problem. The brown tree snake coming from Guam. Those are all problems that we are very concerned about, but we should also be concerned about our standard of living here in the State of Hawaii. It is very expensive to live here. And, you know, the more we tack on fees for products that we are going to use in our daily lives, such as toilet paper, food, rice from whatever source we're getting it from, it really is going to make it more difficult for our families.

"So, instead of doing it this way, I think we should really encourage our federal delegation to do something about interstate commerce so that the source of the funds to combat invasive species problems in Hawaii will be directly addressing it. Thank you very, Mr. Speaker."

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

"Thank you, Mr. Speaker. I rise in support. This measure will establish a schedule of service fees and charges for invasive species, pest inspection and quarantine services from entities that import any article or packing material. The bill also establishes a Pest Inspection and Quarantine Treatment Services Fund.

"Mr. Speaker, the State Department of Land and Natural Resources testifies that and I quote, 'The lack of an adequate sustainable funding is the single greatest problem that the State, federal and private agencies face in the fight to protect Hawaii from harmful invasive species.' Our State has already experienced significant destruction and harm by invasive species, such as the gall wasp, miconia, and also the nemesis, the coqui frog. Remedial measures are costly and should be subsidized by importers of commercial shipments instead of the general excise tax base.

"Mr. Speaker, other areas of the world have experienced irreparable destruction by invaders such as snakes, specifically, the brown tree snake, biting sand flies, midges and many others which have negative impact on visitor resorts in Tahiti, the Caribbean, and many other places. It is prudent that this body be pro-active and responsible in protecting our fragile native eco-systems.

"Many of those who have said that the service fee approach will result in increased cost to importers, which would then be passed along to consumers. Your Committee on Agriculture has seriously considered this point of view and is concerned about what the cost impact may be to our local merchants and consumers. However, it is clear, Mr. Speaker, that the benefit of preventing the entry of new pests, far outweighs the cost of trying to control and eradicate the pest population once they have established in our State. For those reasons, Mr. Speaker, this bill deserves support. Mr. Speaker, I urge you and my colleagues to join me in voting yes. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I'm going to vote against this measure. My objections are similar to the Minority Floor Leader who wants to fight invasive species, but her objections go more to the increase fee. And I question that increased fee.

"There's a menace out there that threatens us in Hawaii, and it is the brown tree snake. It's a menace that will cut our electrical supply and desecrate our environment by eating birds' eggs, frogs and other amphibian insect eaters. It could ruin our poultry industry if left unchecked. Small pets will suddenly disappear. In Guam, the snakes have attempted to eat babies, starting with their arms, but then fortunately it stops at the shoulders. There are 15,000 snakes per square mile on Guam.

"In the early '90s, Senator Inouye recognized this threat coming from Southeast Asia, and inserted \$2 million for a snake prevention program in the Department of Defense budget, which guards us from the planes arriving from Guam. He had been ridiculed for this program. On the mainland they simply don't understand our fear of the brown tree snake because there are snakes in every state, but they are relatively harmless. They have no idea what it could do in Hawaii.

"In the early '90s, I also obtained State funds in the Department of Agriculture budget to supplement the federal program, and I understand these funds are still imbedded in the budget. But now we have another disaster. The federal money, I understand, will stop in May. I hear that the Finance Committee has wisely inserted \$679,000 plus in the '08 budget, and \$179,000 plus in the '09 budget bill. My question is: Is this enough to protect us from the brown tree snakes, and other invasive species? Can we stop the brown tree snake at our ports and harbors? Do we need this bill to assess another fee to stop invasive species? I would appreciate a definitive answer. Meanwhile, I will be voting no on this measure. Thank you."

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

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

"Thank you, Mr. Speaker. With reservations, with similar comments as the prior speakers in regards to the cost implications."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1066, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INVASIVE SPECIES," passed Third Reading by a vote of 48 ayes to 2 noes, with Representatives Marumoto and Sonson voting no, and with Representative Brower being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1858) recommending that S.B. No. 896, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 896, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HIGH TECHNOLOGY," passed Third Reading by a vote of 50 ayes, with Representative Brower being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1859) recommending that S.B. No. 907, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 907, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, on the aerospace development, I'm in strong support of this and would ask that I have remarks inserted in the Journal. I think that some people don't realize how involved we have been with aerospace. Our present Mayor had pushed hard to use South Point on the Big Island as a launching site to send satellites into space. That didn't happen at that time, but people are always looking to Hawaii.

"We've been a global leader in astronomy and astrophysics for years. We've developed a world-class facility atop Mauna Kea and helped support 13 international observatories in their studies of galaxies and star formation, so this is a real acknowledgment of the fact that we are out there. We're not out there yet, but we are located ideally and this is a great industry and this is a great bill. Thank you, Mr. Speaker."

Representative Meyer's written remarks are as follows:

"I am in support of SB 907, SD2, HD2, which promotes opportunities for aerospace-related jobs in this State. This is a desirable industry, with high-paying jobs, and we should encourage organizations working in this field to relocate to Hawaii."

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

"I also stand in strong support of this measure. Mr. Speaker, this bill is literally, 'out of this world,' because it is aerospace and it's really the real frontier; the one that we've not gone or ventured to go yet.

"As the previous speaker said, we really have a leg up on this. We have Mauna Kea. We have companies that have contributed to the astronomy discipline ahead of any other place in the world. The University of Hawaii has worked with the U.S. military, the Air Force and the Navy in particular, whether it be at Haleakala, or on Kauai, with the Navy. And just to name a few of the people that they

are working with which includes the 'big boys': Boeing, Raytheon, Northrop, Lockheed Martin, etc.

"The exciting thing about this bill is, not just because it's space, but because we can really do something very real and very concrete by creating this Office of Aerospace. This bill, for example, could create a Pacific International Center for Space Exploration. That's a big term for a couple of simple things. One is, space tourism, a new concept. Something that says essentially, you take a regular airplane which goes off a regular launching pad, not like Ka'u and the Big Island with all the difficulty of going vertical. You basically put a rocket on the back of it and you can go up with it in a number of hours, experience weightlessness and come back down. And that's space tourism.

"You could also fly from Honolulu, estimated to arrive in Japan in 45 minutes. Space tourism. There's also the simulation of the moon, Mars and other landings on the Big Island because of the lava there. That is a natural environment that lends itself to it.

"But I should close by saying that we are not without competition. Just this morning in the *Star Bulletin*, Los Cruces, New Mexico, just passed a tax increase to create a \$198 million tourism spaceport. They have a lot of sand and rocks out there also, and they're taking it so seriously, they are having a tax increase.

"Mr. Speaker, this bill doesn't create any tax increases, but it gives us a new vision and a perspective for the future for tourism and to take us to scientific advancement. Thank you."

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

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

"Mr. Speaker, I am in support of SB 907. This bill renames the Office of Space Industry, the Office of Aerospace Development, and requires the Director of the renamed office to identify and promote opportunities for expanding and diversifying aerospace-related industries in the State. The ultimate goal of the office is to position Hawaii to be nationally and globally competitive and recognized in aerospace development.

"Renewing our commitment to this industry today is timely, as companies are looking at other States to infuse investment capital as well as new jobs. Our existing infrastructure and our geographical location give us a competitive advantage that is unmatched.

"Mr. Speaker, the aerospace industry and efforts to become a leader in space related science is not new to Hawaii. We must not forget the efforts of the past that have put us in a position to take immediate advantage of this golden opportunity. The only reason why NASA and other companies are currently looking to Hawaii is because of the infrastructure and programs that have been developed over several decades of work by former Governor Ariyoshi, former Governor Waihee, Senator Daniel Inouye, and many other dedicated, visionary individuals.

"Hawaii is not a newcomer to the aerospace industry. It is already recognized as a global leader in astronomy and astrophysics. World-class astronomy facilities have been developed at the Mauna Kea Science Reserve, with investments of over \$1 billion supporting 13 international observatories.

"The University of Hawaii is home to over 40 principal investigators accruing more than \$60 million in annual grants from the National Aeronautics and Space Administration (NASA), the National Science Foundation (NSF), and other federal agencies that support space related programs.

"The United States military has made significant investments in Hawaii's aerospace industry. The Air Force Maui Optical and

Supercomputing Site (AMOS) atop Mt. Haleakala supports our nation's largest space surveillance site. The Navy's Pacific Missile Range Facility on Kauai maintains the world's most extensive and sophisticated multi-environment range, capable of supporting simultaneous surface, subsurface, air and space operations.

"Fledgling local companies such as Oceanit, NovaSol, Textron, STI, Solipsys, and Trex Enterprises are engaging in aerospace related technologies.

"Major national aerospace corporations such as Boeing, Raytheon, Northrop Grumman and Lockheed Martin, already positioned in Hawaii, have potential to expand operations to Asia-Pacific markets.

"The future opportunities for Hawaii are exciting to say the least. In the coming months NASA will seek to identify remote locations in the US to develop "ground-based analogue capabilities". Hawaii has many strategic advantages and could be very competitive in the site selection process. Hawaii's mid-Pacific, near equatorial location makes it the only state in the nation from which payloads can be launched into any orbit without over flying populated areas. This enhances launch efficiencies, reduces launch costs, and maximizes public safety.

"A spaceplane under development by Rocketplane Kistler takes off and lands at an airport like a commercial jet plane, but uses a rocket engine to carry it to space. Rocketplane Kistler has requested permission to launch from Hawaii by 2009. It projects launching from Honolulu International Airport and returning to Honolulu or Kona.

"The long term build out, 5 to 6 years, include trans-Pacific flights between Hawaii, Japan, and the continental US. Over \$200 million in annual gross revenues are projected through launch fees paid by tourists, universities, private companies, and the Department of Defense.

"Rocketplane Kistler also plans to develop a terrestrial space themed education and training center in the Kalaeloa district.

"The prospects for Hawaii are exciting and challenging as we enter a phase of expansion in this industry. I urge my colleagues to remember where this all began, and support this continuing effort."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 907, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AEROSPACE DEVELOPMENT," passed Third Reading by a vote of 50 ayes, with Representative Brower being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1860) recommending that S.B. No. 1929, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1929, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. I'm rising in opposition to this measure. This bill removes the criminal penalty of a misdemeanor for any person who intentionally violates the rules of procurement. And, secondly, it adds the imposition of an administrative fine which is set out in rules that don't yet exist.

"This measure requires that procurement policy board to establish proposed rules for administrative fines to implement this measure before next Session, to take the misdemeanor charge out of the law, and not have rules in place. It makes you wonder if somebody knows somebody who could come under this law with a

misdeemeanor and they don't want them to be caught in that web. I don't know.

"The review of whether one is in violation and assessed administrative fines will be reviewed in what appears to be a closed-door discussion between the Chief Procurement Officer, the using agency, the AG's Office, and the corporate counsel. I'm not actually sure what they're trying to do here. There's an old adage, 'if ain't broke, don't fix it'. If the purpose of this bill is to emphasize the seriousness of procurement rule violations, this measure fails to execute our purpose. We seem to be moving in the other direction. 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."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1929, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC PROCUREMENT," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Meyer voting no, and with Representative Brower being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1863) recommending that S.B. No. 156, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 156, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

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

"Mr. Speaker, I will be voting no on this measure. I have no opposition to absentee mail voting. I think I mail in my ballot every election. However, the permanency of the mail ballot is a temptation I think, could lead to fraud. If the voter notification postcard is not returned to the Office, then another ballot will be mailed out and there's always room for mischief there.

"If someone dies, that person is supposed to notify the Clerk that he will no longer be voting, and actually it would be the widow or widower probably, but that's probably the farthest thing from their mind when somebody dies. That we must tell the Clerk that we will not be voting. If somebody moves away, they don't think of notifying the Clerk. If they go to jail, that's, again, the farthest thing from their mind. So I'm concerned about this particular provision of this bill, so I will be voting no. Thank you."

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

"Mr. Speaker, I rise in opposition to this measure. I do appreciate the intent of the bill and the work that was done by the Judiciary Committee. I understand the safeguards that have been put in, but having been an elections administrator in the past, I do have serious concerns, especially with regards to, as the previous speaker noted, the notification of death or change of voter's status as far as going into prison.

"There's a tremendous backlog in the Office of Elections, and they are so tremendously understaffed, especially during an election cycle. It's difficult to even be able to update those when you're trying to update the voter registration. I don't think this bill addresses that and hopefully if it does go through, that it will allow them to get more staff to do that.

"Also, in my district the majority of the votes are done through absentee voting, I don't think the safeguards protect the voters for the

potential abuse that happens on the actual filling out and the collection of ballots in some cases. I'm seriously concerned about that and I think that maybe if we are to address this issue properly, we also should look into the complaints process against election fraud, as well as being able to not fear the intimidation of filing a complaint. Thank you."

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

"Thank you, Mr. Speaker. In opposition. I ask that the words of the Representative of Kalihi be incorporated as my own. I think he expertly pointed out some pitfalls and flaws with the bill. My concern would be, to reiterate, that there's not the proper staffing right now. Unless there's going to be a copy of notification from a death certificate, the question, when you look into the details, and the devil is always in the details, really what way are we to know for sure that someone is no longer there, either through death or through moving.

"There's no way to check. And as was pointed out by the Representative of Kahala, that's the last thing on the minds of people who's loved one has passed away. So, truly, while this has a good intention and which many people would love to see, and work to see that registration is up and that voter participation is up, we don't want to do it in a way that invites fraud. Thank you."

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

"Mr. Speaker, I rise in strong support. I just wanted to counter some of those arguments. I think people need to realize that this bill is really strongly supported by AARP because I think we are starting to realize absentee voting is really about the ability for people to exercise their right to democracy and the fundamental rights of voting.

"While people may have these speculative fears about fraud, they will have to remember that that is a crime. So, if you fill out somebody else's ballot when it's not you, that's election fraud, and that's something that can be prosecuted. So, I don't think that should be a valid fear for us to not go down this road.

"When I was looking on the data on the Office of Election website, when we look at back in 1992, the earliest date that they have for the elections, back then only 40,000 people were using absentee ballots. That basically was about 8.7%. It only came out to about 1/7th of the people actually going to vote who are using absentee ballots. But we see every year thereafter, it's a substantial increase, such that, by 2006, there are 118,000 people using absentee voter ballots. That's an increase of over 70,000 of our voters participating in the democracy that we have in our State. But more so than that, it's almost one-third of those ballots cast were through absentee ballots.

"That is something I think we should remember. We need to make exercising of their fundamental rights easier, and not harder. And we cannot be using fear of bureaucracy or say that it's going to be too hard, or that we don't have enough resources, or that there is going to be potential fraud. I don't think any of those reasons are compelling enough for us to inhibit somebody's right to vote. Thank you."

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

"Thank you, Mr. Speaker. In support. One of the arguments against the bill is that the Office of Elections doesn't have the necessary resources. Well, interestingly, they supported this measure. And in fact, we introduced, at least on the House side, this measure for the Office of Elections. Would have, could have, should have, aside. This bill does try to increase voter participation. Thank you."

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

"I rise, Mr. Speaker, in strong support. Anything that does encourage voter participation I strongly support. We have the lowest in the nation. We've got to do something. We have to do something. My parents vote absentee and they're in their 80s. They have to go through that same process of reapplying every year and, really, that's how they're going to stay voting. If they get this, that gets to be permanent. I vote absentee and I would appreciate the convenience of this.

"In Oregon, it's all mailed ballots. So, they've dealt with it. I think what we need is, people are really concerned about fraud. We should do a study on voter fraud. How much is actually happening, and how we prevent it. But however we can get people's ballot into their hands, however, we can get it to them, I support very strongly."

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

"Mr. Speaker, thank you very much. In strong support. I sort of empathize with my good friend from Kalihi in his objection to this particular measure because this is a situation where I think, he had bad personal experience in that election process and using absentee ballots. However, that personal experience should not be adequate to oppose this bill.

"This will ensure that more people will be able to vote and will want to vote. It is so hard to get our communities in Kalihi, and also in Waipahu, it's hard for them to make it to the polls. This is to encourage them to participate in their government. I think that this bill has adequate safeguards in the bill on page 3.

"In addition to that, I think if we pass another measure, that will ensure that those who are indeed, committing fraud or election fraud, will go to jail and subject them to hard labor for two years. There is a little glitch here, on page 3, line 17, however, I think it makes it very difficult to stay on the permanent list. Because if I were to study and analyze the voting records or voting habits, at least in my district, a lot of people vote at least once, but it's very difficult to have them vote twice. So, this safeguard number 4, actually ensures that almost all of the people will drop out of the list. I think this provision eventually will put people to sleep in thinking that they are on the list and not register again for absentee.

"I request that this provision should actually be removed. It should read that 'if the voter does not return a voter ballot by 6:00 p.m. on election day in an election year', should be sufficient so that if the voter does not vote for that election year, then that person has to re-register for an absentee ballot the following year. So, that way, if somebody does miss to vote in the primary or the general election, they could still permanently be on the list of those who are registered to vote in the absentee process. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. Just a short comment in opposition. If you could incorporate the words of the Representative from Kalihi as my own, as well as just to say that, I have nothing against the absentee ballot. In fact, I find that's an okay procedure to go through. I just am in opposition of making it permanent, Mr. Speaker.

"I've noticed when I went door to door. I said if you had the option of either going in person or doing it absentee, and when I explained to them that you could do it absentee, they would just look at me and say, 'Wow, that's so easy.' It really is a simple process and it puts some responsibility on the voter to have a responsibility to, if you want to do absentee ballots, to just let them know that you want to do an absentee ballot. 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. Yes, we want better voter turnout, but at what cost? We don't want to negatively affect the integrity of the process. My concern is we could have, as the Representative from Foster Village said, if you have, especially townhouses and condos, you have maybe three or four names at the same address. I can see where some people would be tempted when those absentee ballots arrived, three or four of them, to fill out all of them. So you would have some people voting three or four times, and then others that are not voting at all. I don't know if this would really solve the problem, but I do think it has the potential to damage the integrity of our voting process. Thank you."

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

"Mr. Speaker, I rise in support. Mr. Speaker, it's interesting the discussion we're having because if you look at our current system, people can vote by absentee ballot and they can send in by mail asking for it. What it does, though, is you have to come back every year and just do it over, and over, and over again.

"The other thing is if we're really worried about people leaving the State or dying or whatever, I know from my own personal experience they can be on there four, six, eight, ten years and not be living in the same residence anymore. Supposedly, it gets purged if people don't vote after two election cycles, but I found out that's not necessarily the case. So, the way the system is working now it has a lot to be desired, and I do think this absentee ballot is a great way to go.

"For a lot of people, it's the only way they can vote. Either they're in wheelchair, they're elderly, or they've got these really, really busy lifestyle that we all talk about, voting on Saturdays when everybody's running their kids to soccer and all over the place. It's just not working so I really like this and I hope we move it forward. Thank you."

Representative Finnegan rose to respond, stating:

"Thank you, Mr. Speaker. Just one short comment and how extremely difficult it is to catch someone who has done election fraud. We've had many complaints and most of the time they just say, 'Never mind. Let's not deal with it.' Thank you."

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

"Mr. Speaker, in support. I just want to say with regard to this fraud question, I think with the absentee ballots, we have exactly the same problem now. If you get an absentee ballot in the mail, you can take it and fill it out for somebody else and send it in. And if you have several people in the house who are voting absentee, you can mail them all in. Forging a signature is pretty easy and I don't see that if this bill passes, it will be any difference in terms of potential fraud. 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. 156, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO VOTING," passed Third Reading by a vote of 43 ayes to 7 noes, with Representatives Belatti, Ching, Finnegan, Manahan, Marumoto, Meyer and Ward voting no, and Representative Brower being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1864) recommending that S.B. No. 1928, SD 2, HD 2, as amended in HD 3, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1928, SD 2, HD 3, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. I rise in support with reservations. There are two different topics that are addressed in this particular bill. I have some concerns that in particular, in extending the role of the Auditor concerns with regards to the moneys that is going to be needed for post audits and to establish an investigative unit and all the details that are listed in the bill.

"The second concern that I have is the blank amount appropriated in this bill allocated for the 2050 Sustainability Taskforce. So I hope that the Committee on Conference will take a look at each of these issues separately. If the intent is to create an investigative unit for the Auditor to be able to look at the malfeasance and the different issues that are going on with perhaps regards to appropriate use of funds relative to our sustainability efforts.

"I think it's a little premature at the moment. We will have a draft according to the Taskforce leadership by June as to how the State Plan will be modified, as to how the 12 Functional Plans might be adjusted to reflect our movement towards sustainability, and perhaps at that time, it might be a little bit clearer as to what role the Auditor might play in helping us fulfill those plans, especially with regards to the Executive departments. Thank you."

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

"Thank you, Mr. Speaker. I'm rising in support with some reservations. My reservation really has to do with the Department of the Attorney General. They did comment on this bill and we heard it in Finance. They wanted an amendment in there because the Auditor might start an investigative unit on somebody or some practice, and the Department of the Attorney General may already have something going on. They wanted some kind of communication so that they wouldn't be working on the same thing and at cross purposes, but that amendment was not put in in Finance, so that's my concern. Thank you."

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

"Mr. Speaker, please note my reservations for the same reason."

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

"Thank you. Reservations for the same reasons."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1928, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF THE AUDITOR," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Marumoto voting no, and with Representative Brower being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1865) recommending that S.B. No. 1191, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1191, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PEDESTRIAN SAFETY," passed Third Reading by a vote of 50 ayes, with Representative Brower being excused.

At 11:18 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1066, SD 2, HD 2

S.B. No. 896, SD 1, HD 2
S.B. No. 907, SD 2, HD 2
S.B. No. 1929, SD 2, HD 2
S.B. No. 156, SD 2, HD 2
S.B. No. 1928, SD 2, HD 3
S.B. No. 1191, SD 2, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1866) recommending that S.B. No. 1853, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1853, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, I rise in opposition to Stand. Com. Rep. No. 1866, S.B. 1853, S.D. 1, H.D. 2. This is another bill that has a very good intent, but its structure may be not thoughtfully crafted at this point. This bill creates a too burdensome bureaucratic layer that may delay the management process of Hawaii's natural and cultural resources to the point of bordering on irresponsibility.

"The Aha Moku Councils are stated to be advisory bodies in this bill, but at the same time this bill gives them the power to establish regional community development programs, which have policy making and regulatory functions. According to this bill, all State agencies would have to go to these Councils for input on various State actions as related for the management and maintenance of marine, land, culture, agriculture and natural resources. Mr. Speaker, in this Legislative Session, we talked about how to fast-track permitting process. I'm afraid that this will create an extra layer of bureaucracy that would actually lengthen processes for our businesses. Thank you."

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

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

"Thank you, Mr. Speaker. I also rise with reservations on this bill. This bill does need a lot of work and it does add another layer of bureaucracy and may hinder getting public input from a broad range of community members. I'll wait to see what comes out of the Conference Committee, but I am concerned on the structure of this bill. Thank you."

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

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

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

"Thank you, Mr. Speaker. I'm rising with reservations, too, for similar reasons to those that have been expressed by my colleagues. Thank you."

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

"Thank you, Mr. Speaker. In strong support. This bill and its many forms, started off with a concept that people in the Hawaiian community, practitioners, *kupuna*, needed a way for them to

comment on the way the resources of this State were being managed by government agencies. This is one way for people to have input.

"The decisions still rest with the existing agencies and I think in a lot of the bills that have come before this body this year regarding various natural resources, I think the underlying message is clear. Some people in this State, and a lot who are Native Hawaiians, feel left out of the existing process. I ask my colleagues to endure with us on the journey of this bill to try and make things more accessible for those. Thank you."

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

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

"Thank you, Mr. Speaker. In strong support. I would like to echo the words of Representative Chong, but also add to that, that over the past 200 years, Hawaii has seen and experienced severe changes. These changes include the deterioration of the Hawaiian culture, language, values and land, the *ahupua'a* system, that has, in part, resulted in the over-development of the coastline, alteration of fresh water streams, destruction of life giving watersheds, decimation of coral reefs and the decline of endemic marine and terrestrial species.

"Mr. Speaker, the Native Hawaiian's culture has knowledge and has been passed on for generations and is still living for the purposes of perpetuating traditional protocols, caring for and protecting the environment, and strengthening cultural and spiritual connections. It is through the Aha Moku Council that Native Hawaiians protected their environment and sustained the abundance of resources that they depended on for thousands of years.

"Today, many Hawaiian communities are becoming revitalized by using the knowledge of cultural practitioners that was passed down through *kupuna* and experienced farmers or *mahi'ai*, and fishermen or *lawai'a*, to engage and enhance sustainability, subsistence and self-sufficiency. Furthermore, many Hawaiian communities are interested, concerned, involved, willing and able to advise government agencies, organizations and other interested groups in integrating traditional knowledge and *ahupua'a* management practices.

"Mr. Speaker, I realize that in the form that this bill is in today it needs some massaging. But I just ask my colleagues to give it a chance as we journey through the legislative process because yes, the structure is not perfect. But as we discuss not only with native Hawaiians, but with every community member that comes forward who was interested in the *ahupua'a* management system, we are collecting that input and trying to work through to come up with a way that Native Hawaiian practitioners can voice their concern, *kupunas* can bring forward their knowledge. Because it's all about building trust in each community. And also teaching the respect and the protocol that they have done for centuries; to bring it forward so that we're able to bring forth best-practices management.

"I'd also like to say that this is in an advisory capacity. It is up to the department to set the policy. So this is only in an advisory capacity that Native Hawaiians will have a voice. Thank you, Mr. Speaker."

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

"I rise in strong support and ask the words of the previous speaker be incorporated as well. This is not another level of bureaucracy. You have to have bureaucrats to have a bureaucracy. And these Aha Moku Councils are not bureaucrats. They are people of Hawaiian ancestry who have joined together to try to create an actual process that they can have more effect in creating better laws.

"On Maui, there is great excitement in seeing these brought back. In my efforts to put back the trails and to put back as we were talking about the indigenous architecture, we also have to put back the actual structure that people were able to govern themselves with. And these Aha Moku Councils are an exciting step in that direction. In order for us to really bring back the culture, we have to put back the very things that they used in order to govern themselves.

"So we're looking forward to actually seeing a new general plan that actually incorporates these Aha Moku and the *ahupua'a* as our land use. And it's going to be real important that we have a structure for people to tie into to be able to affect this plan. So I ask that colleagues also look at this as a work in progress and that we can make it better, but we have to give them something."

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

"Thank you, Mr. Speaker. May I have the comments of the Representative East Maui, and also that of the Representative South Maui inserted into the Journal as if they were my own? In strong support. And just some brief real comments.

"I was kind of, I guess shocked, that this was being characterized as another layer of bureaucracy. I attended a meeting for the Councils in West Maui. And anybody who has been to Lahaina knows that you can't get anybody to show up unless you have a raffle to Vegas or a band. There were over 200 people there. And most of the people there were not of Native Hawaiian ancestry. They were just local common folks. Folks that engage in these practices themselves. And all they're seeking is a voice. And that's it. The governor still has power. The agencies still have a power. But what they want to make sure is that they have a voice and that also that the government looks at these traditional practices in ways of the things, the way things used to be done.

"So I hope the Members of this body will support this measure. As the Representative from East Maui so poignantly pointed out, there's work that needs to be done. But the underlying concept, participation by the citizenry and putting a check on the rulemaking of agencies that often act with total disregard, is not very much to ask. So I hope that we can support this measure and move it forward to Conference where we can work out some of these issues. Thank you."

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

"Mr. Speaker, in strong support. Can I have the words of the three prior representatives from the Maui in the Journal as my own? And I also want to comment that, we say, 'The life of the land is perpetuated in righteousness.' And having lived here, I've noticed this idea of the *ahupua'a*, from the mountain to the sea is such an important concept that I think in terms of planning, it's such a good thing for us to remember that *ahupu'aa* concept.

"I'm very excited by this bill. I think it has a lot of potential to really add to the discussion. Adding to better land use decisions. I just see it as just a really good concept that we should take forward and make sure that planners and our citizenry hear of that concept and what that concept has to offer to us. Thank you."

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

"Thank you, Mr. Speaker. Please just note my slight reservations. In regards to advisory capacity type boards, on Oahu we have our Neighborhood Boards and I can't tell you how frustrating it is to hear from the board members as to their only having an advisory ability and how they feel like they're really not needed because of that. Thank you."

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

"Thank you, Mr. Speaker. I rise in support with reservations, understanding all the underlying issues of this particular measure. I'm hopeful that as this moves forward this can also be a unifying measure for all the other Hawaiian groups. It gets kind of sticky when we start talking about Hawaiian groups and who's who, and who has the louder voice. I think out of respect for our host culture and best practices, this is a measure that is long overdue. I also hope, as the Representative prior to me just mentioned, that adjustments may be needed in the future to ensure that the advisory capacity of this particular council will be respected and adhered to. Thank you."

Representative Morita rose to respond, stating:

"Thank you, Mr. Speaker. Again, with reservations. My primary concern is that it's the empowerment of the community and I don't want this misperception that a piece of legislation, a statute, will empower communities to speak their voice. In my discussions with activists from my community, they empower themselves and they take on issues and they approach these agencies. And so my feeling is, yes we can strengthen the process, but we have to be real careful. Because it's up to community members to empower themselves. And not rely on a statute to do that. Thank you."

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

"Thank you, Mr. Speaker. In strong support. Thank you. The concept is a great concept. I think people in the Hawaiian community have approached me and have strong concerns about this. But it's an excellent opportunity for us to try to move forward, to give them a seat at the table to express their concerns about the Hawaiian culture and the practices. So I strongly support this and I'm sure between the wisdom of this body and the Senate, the kinks can be *lomi*-ed out in Conference. Thank you very much."

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

"Thank you, Mr. Speaker. I stand in strong support and ask that the sentiments from the Representatives from Waimea, Lahaina, Hana, Kaneohe and Kihei be entered as my own," and the Chair "so ordered." (By reference only.)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1853, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO NATIVE HAWAIIANS," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Belatti voting no.

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 1868) recommending that S.B. No. 1674, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1674, SD 1, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you. In support, Mr. Speaker. Thank you. Telemedicine is fast becoming a mode of providing quality healthcare. And any step that's geared to obtaining the development of telemedicine should be supported.

"Further, there is a shortage of radiologists in our State. And this bill, if enacted, will address this problem. In fact, at our Health Committee hearing, one of the testifiers had indicated that we have

48 radiologists who hold medical licenses in the State of Hawaii, out of whom 3 still remain in the State.

"This measure will allow radiologists to review the patients' images, interpret such images and issue a signed medical report for further patient treatment care. Again, the practice will be limited to whether the radiologist is licensed to practice. Therefore, it will allow those 45 radiologists who no longer live in our State to provide such healthcare to our State. In summary, this measure will use technology and innovation to provide better access to healthcare. Thank you, Mr. Speaker."

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

"Mr. Speaker, I am in support. This is about market share, Mr. Speaker because right now x-ray film can be faxed or emailed anywhere in the world, thanks to technology. So if you have a broken bone at Queen's Hospital, you can have a radiologist in Queen's New York read it for you. So this is about market share, because that would take away some of the business from the local radiologists. But I'm a *kamaaina* and so are they, Mr. Speaker. So I support it. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1674, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 51 ayes.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1869) recommending that S.B. No. 946, SD 2, HD 1, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 946, SD 2, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, in opposition to Stand. Com. Rep. No. 1869. Thank you, Mr. Speaker. We've actually talked about this in depth in a former Reading on the Floor, so I'm going to incorporate those comments as my own," and the Chair "so ordered." (By reference only.)

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

"On Stand. Com. Rep. No. 1869 in opposition and I did want to note the opposition of Mothers Against Drunk Driving. 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. 946, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ADMINISTRATIVE LICENSE REVOCATION," passed Third Reading by a vote of 47 ayes to 4 noes, with Representatives Ching, Finnegan, Pine and Thielen voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1871) recommending that S.B. No. 95, SD 1, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 95, SD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

Thank you, Mr. Speaker. On Stand. Com. Rep. No. 1871. Thank you, Mr. Speaker. In opposition. I actually just discovered this a couple moments ago and I hope I'm correct on this, but I'm going to

vote no on this. I thought that this was just basically a technical amendment and the synopsis is basically that it repeals a provision that any positions that are reallocated must result in positions being transferred from the State and district offices to the schools. And then the pros on this under Act 51, the schools determine the number and the kind of positions required by the school, and therefore, this section is no longer necessary.

"In the full implementation of Act 51, that is true. The school communities should be able to make those types of decisions. But what we're having right now in regards to the implementation is a very slow implementation. And of the decisions that were made and that were adopted by the Board of Education, only 15% of that is actually being implemented at this time. So I think we are actually moving on this a little quickly. That we should still have this in law, and then when we are at full implementation of Act 51 or closer, to more of the implementation of Act 51 should we decide to repeal this provision. 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. 95, SD 1, entitled: "A BILL FOR AN ACT RELATING TO VACANT POSITIONS IN THE DEPARTMENT OF EDUCATION," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Finnegan and Meyer voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1873) recommending that S.B. No. 1068, SD 1, HD 1, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1068, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAMPAIGN SPENDING," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1876) recommending that S.B. No. 96, SD 3, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 96, SD 3, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. On Stand. Com. Rep. No. 1876 which is the DOE drug testing bill, Mr. Speaker, I have some concerns about that. I will see what happens as the bill moves forward, so I have reservations."

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

"Thank you, Mr. Speaker. Stand. Com. Rep. No. 1876, with reservations. Thank you, Mr. Speaker. Upon reviewing the bill, I think a good part of this is that this bill also adds in random drug testing, and what that is able to do is actually become a preventive measure. Many people in other labor unions also say that it's a preventive measure. I know in the fire department amongst friends, they'll say a lot of times that we decide not to do this because we can be tested at any time. So I think that that is a good measure and that's a really good thing that we have put into the bill.

"My questions are in section 1 subsection (b), (c) and (d). I'm not sure what this language gets to. It almost sounds like, 'Okay, well here we are. We have the test results.' And that's it. It kind of almost negates some of what we would need to do, and especially this part that says it becomes invalid if there's a valid collective bargaining agreement. I'm a little iffy on that because I think that's why we're doing it. Because maybe the labor union hadn't done it prior and we're not sure what's going to come up. So what if they

come in and say, 'Okay, we're not going to address this issue,' although they have said that they will address this issue? Then does that mean that this is null and void?"

"So I do have some questions on this. I'd like to support it as we go forward. However, I'm not sure if it has what everybody thinks it has in it. Thank you."

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

"Thank you, Speaker. I rise in strong opposition to this. I think I've expressed this at Committee hearings and other times as well. But this 'War Against Drugs' is actually a war against people. People say that these drug tests are for illegal drugs. The reason they're testing for them isn't because of their affects on people. Specifically it's for marijuana because that's the reality of these tests. That it will really only catch marijuana. It won't really catch the other ones because of the way it's set up. It's not for any other drug. It's not for the way overuse of prescription drugs. And it's not in response to any problem that has been identified; that people coming to work on drugs or not being able to perform their duties because of it.

"So what this is, is a war against people. And it's a war against marijuana. And it tramples our civil rights. It requires that people hold a standard to themselves that has nothing to do with job-related performance. And so I would really ask people to really think this through. Really reconsider this whole War on Drugs. And really look at why we are testing people and punishing them just because the government at one point or another decided these things were illegal, specifically marijuana. And to really think how do we get the best teachers? How do we get the best firemen? How do we get the best people, even in this Legislature? Because I know that we're actually going to be looking at maybe drug testing ourselves. So I would ask everyone who votes for this bill to go and take a drug test ahead of time so that you can practice what you preach.

"We must stop this war against people. We must look at people that are taking all kinds of things. The most prevalent drug use is prescription drugs. And that's what being relayed right now in our kids. Our kids, marijuana use is going down. OxyContin use is going up. Is this what we want to promote? Do we want to see kids abusing prescription drugs, because that is the major problem that is facing our society right now. Thank you."

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

"Thank you, Mr. Speaker. I'm rising in support with some strong reservations. The previous speaker has very little to worry about with this draft of this bill because it essentially does nothing. It would make it so somebody has to get a drug test. But then, as the Representative from Foster Village pointed out, on page 2 section (b), it says that if the test results are positive, the employer may impose the following sanctions. So there's no demand that the principals do anything. So this is a really weak, weak bill that was introduced to try to solve a real problem.

"Recent press has brought attention to the problem of teachers being caught up in drug activity on school grounds. The press coverage included an elementary school teacher arrested and charged with conspiring to bring in a shipment of ecstasy and cocaine. These are serious drugs. And a high school teacher for conducting ice deals on campus. This bill was introduced because we must ensure that our teachers can be trusted and are setting a good example. This cannot happen when they have a drug problem.

"Some would say marijuana is benign. But I don't think a stoned teacher coming to school is a good representative of the Education Department. They are not going to be effective. Their thought process, everything will be affected. So this is not a small problem. Hundreds of Hawaii's families send their kids to school with the idea

that it's a safe place to go, and as legislators we should do everything possible to make sure that's true. Thank you, Mr. Speaker."

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

"Mr. Speaker. I rise in strong support on this matter. I see the drug testing as a deterrent to drug use and as another armament we have towards the war on drug abuse. Whether we are searching for prescription drugs, marijuana or otherwise, I think it's good to be in the know on what our children or teachers on campus with them. I think the thought that you can be tested for drug at any time is a deterrent first of all. Secondly, it's a way to filter out those people who use them. I strongly support this measure and I would go and submit myself for drug testing any day. And I think it's good."

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

"Mr. Speaker, I rise in support. Very briefly. I just wanted to counter some of the arguments that have been brought up, specifically in terms of the safeguards that are put in the bill on pages two and three. What we have to remember here is that this is actually an infringement on somebody's privacy rights. And privacy is a fundamental right under our State Constitution, unlike the federal Constitution where privacy is found in the penumbra of rights and is not explicit.

"In Hawaii, we have an explicit right to privacy. And therefore, whether you like it or not, I hate to tell you, but that's a fundamental right. And when you are infringing on a fundamental right, you need to make sure that people have due process. If you don't like that, what you need to do ..."

Representative Meyer rose, stating:

"Mr. Speaker. Is the speaker speaking in support or opposition?"

The Chair responded, stating:

"He is in support of the measure. He already stated it."

Representative B. Oshiro continued, stating:

"Let me make it clearer then. Some people have said that there are too many problems with this because there are too many safeguards. I'm explaining why we need the safeguards.

"The safeguards are there to protect and give due process when we are infringing on a fundamental right. I don't know how much clearer I can make that, but privacy is a fundamental right. If you infringe on it, you need to give due process. That's what pages 2 and 3 are about. It's about due process. Because first and foremost, just because a test is positive, it does not, one hundred percent guarantee that the person has used drugs. There are false positives. Also, you cannot guarantee that the person has not used something other than what you're testing for. Some times you have prescription drugs that test positive on them and that may not be exactly what you're testing for either. It's not about health and safety sometimes if the person does have a prescription. So this is what it's about. It's giving due process rights for those individuals that do test positive.

"Now, to get to the other concern that I have with the bill. It was changed and that is why I'm a bit concerned because it does include random drug testing. Now that's something I think that does raise some constitutional concerns. There is a multitude of case law on drug testing of public employees, and while the courts have specifically found that it's fine for things like firemen, police officers and bus drivers because there is a direct correlation to their safety, when it comes to something like teachers, the case law is all over the map as to whether you need what's called, individualized suspicion. And that is what we have in the prior draft of the bill. I see that it's

been changed to reasonable suspicion. So I think that's something we need to further look at as the bill continues to move.

"I do think that for now, people have said that this is something they want to see us bring forth. There were four or five arrests recently. Of course, that's only out of 13,000 teachers, so whether four or five justifies us to pass a bill and change law I'm not sure, but at this point in the game I think it's early enough where should bring it up for discussion. We'll see if the union and the employer are unable to come to an agreement and come up with something in their own collective bargaining agreement which I think, would be more prudent move; that they together come up with a mutually convenient or mutually agreeable solution. Thank you."

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

"Thank you, Mr. Speaker. I rise with reservations. Thank you. I really like the intent of protecting our children and making sure that they're in a safe place, but I do have some concerns on and I want further discussion on this. One being that they did delete, if I'm reading this correctly, the support for the employee in terms of getting substance abuse treatment counseling and referral. I think we have to remember that we're dealing with a drug epidemic in Hawaii and that drugs probably cuts across the board at all different levels, in all areas of work probably, of people are having substance abuse problems.

"I also think we have to remember that alcohol abuse is a problem too, and that is a problem that is across the board, knows no boundaries. And when someone is an alcoholic, we understand they have issues, and hopefully we're there to support them and give them counseling and treatment. I hope when it comes with a drug part, if we see that people are in trouble, that we're there helping them with the treatment and the counseling, and that part of it. We have such an epidemic in Hawaii, and like we did a few years back, we really want to focus on that treatment and prevention part. Thank you."

Representative Finnegan rose to respond, stating:

"Thank you, Mr. Speaker. Second time with strong reservations. I'd like to address a couple of the comments that were made earlier. And I'll start with marijuana use. In my experience around me, marijuana use is different probably from some of the claims that marijuana may not be that harmful of a drug. But I've watched families and communities around us basically have some serious problems with this gateway drug. I've seen families torn apart because of marijuana. So if you think that marijuana is something that is, 'Oh, it's just a light drug. We don't have to really be careful about this type of drug.' I would argue differently.

"In regards to the whole issue about privacy issues, you know, we have Hawaii, four Hawaii labor unions that actually have this in their collective bargaining agreements currently right now. They have due process that is stronger than the language that they have in this particular bill. So I would argue right back on that and say that are we saying that these four Hawaii labor unions are violating privacy rights?"

"I would also like to talk about children here. Kindergarten, first grade, second grade, third grade children for whom we cannot control their environment sat home if they have drug addicted parents. And if you talk to teachers, they'll tell you. Parents that are drug addicted can cause so much problems in school. But yet in the environment that we can control, their own classrooms, that we don't think it's important enough to have teachers not on drugs.

"And like I said, these are only whatever amount of arrests in comparison to the many good teachers out there and we're not out to get people who are not on drugs. We just want to identify those who are on drugs that could be possibly for these kids, cause them emotional distress. And if it can happen at home, when their parents are addicted to drugs, why can't that same emotional distress happen

at school? National studies have shown that if you have one, two or three bad teachers in a row, that these students will never recover throughout all of their grades of public school or private school. That's why it's that important. You can sometimes hide the fact that you may be on drugs from other people like your principal or other people outside of the classroom, but these teachers are with kids ..."

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

Representative Finnegan continued, stating:

"These kids are with, sometimes singly, with one teacher for a majority of the day. Hours and hours at a time without any other adults around. We need to be able to say, if the union doesn't take care of this issue, that we will have something in place. It has not happened. From what I could see in earlier media, was that there was major resistance to this. When I talked to teachers within my district, one way or the other, they're really not against this kind of thing. So all I've got to say is we've got some very young children in an environment that we can control. And I think we owe it to them, we owe it to their families to make sure it's a safe environment."

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

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

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

"Mr. Speaker, note my reservations with brief comments. I thought the number was a little higher than 13,000 teachers. And for us to pass something for a small group of people who have spoiled it for the masses is, I think a bad idea. And if we're going to do it to them, then maybe we should look at doing it to ourselves as one of the bills that's crossing over from the Senate. Thank you very much for the time, Mr. Speaker."

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

"Thank you, Mr. Speaker. Very briefly in support. The previous speaker made a good comment. I'm perfectly happy to be drug tested. The other point I'd just like to make briefly is that I think our school teachers have to be role models directly on the issue of drugs. I don't like over-testing people, but marijuana is a big deal and other drugs are a very big deal because people drive impaired and there are a lot of accidents, a lot of car accidents on Big Island and elsewhere. I don't know how we can really expect our teachers to stand up day in, day out and tell our students not to do drugs if we're not sure that they're not doing them themselves. I don't want to persecute anybody, but I do think that teachers have to be our best role models, and they have been great role models in the State of Hawaii. So I think it's kind of reaffirming their place as role models in the State. Thank you, Mr. Speaker."

Representative B. Oshiro rose to respond, stating:

"Still in support, Mr. Speaker. Very briefly. I just wanted to clarify. There's a difference between the collective bargaining agreement, which is a contract, when the union and employer agree to abide by certain terms, versus when we pass a bill. When we make a law, we need to follow the Constitution. That is the fundamental difference that I'm talking about. We have to stay within the constrictions and confines of the Constitution. And that is something that no matter how much you don't like it, we have to do."

"People can agree through contract to do whatever they want. And that's a different thing. So that's what I'm hoping that they will end up coming up with. I'm not criticizing what the other four unions have done. In fact, I think that's something very worthwhile and

something that HSTA, I hope, is looking at. But what I'm saying is when we pass a law, we have to follow the Constitution. It's that simple. Thank you."

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

"Thank you very much, Mr. Speaker. Reservations and couple of comments. First of all, in response to some of the comments made by the Minority Leader, I'd be very interested in any studies that shows a direct correlation between teachers who either sell drugs or use drugs and their performance in the classroom. In my opinion, drug use in our society cuts across every demographic group, whether it's good, bad or indifferent teachers. So the example of three bad teachers in a row would damage a child, I do agree with that, but I happen to not see the correlation between that and possible drug use among these supposedly bad teachers."

"Second point is, it always is the question of where do we strike that balance. Yes, I've heard people say, let's drug test because they're role models. Why not just fingerprint everybody for that matter and put them into an automated fingerprinting system so that if a crime is committed on campus, we know who did it? Where do you cross that line? I don't know if this bill crosses that line, Mr. Speaker. But I am concerned that it may have."

"And the last point that I would make as far as gateway drug of choice, many, many studies have been done that shows the gateway drug of choice today is alcohol. Are we going to do anything about that, Mr. Speaker? In fact, alcohol stays in your system for a very short time. So, if a teacher is high on beer or Grey Goose or something, how do we catch that teacher when she or he shows up to work on a Wednesday and they had a beer at home on a Sunday? Again, Mr. Speaker, this is a slippery slope, and I do appreciate the distinction made by the Floor Leader about contracts and rights to privacy. Thank you."

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

"Thank you, Mr. Speaker. I rise with some reservations. I have a number of reservations, but I'll point out two. First, the bill makes reference to procedures, developing procedures under what they call, reasonable suspicion. And I suspect that as this measure goes along, and if it becomes law, one of the concerns will be who decides reasonable suspicion. In a school, the assumption is the principal. And I think we run into serious concerns if that's the case."

"Number two is, as the Majority Floor Leader mentioned, the contract negotiations ongoing with HSTA. There are other unions involved for employees at the school level; HGEA and UPW being the other two. In addition, Mr. Speaker, as was mentioned in hearings in the Education Committee, there are numerous individuals that work on the school campuses or volunteer or do whatever that are in close proximity of these students. And a previous proposed draft suggested that we also put these individuals under this type of scrutiny as well. So I stand with those reservations and I hope that we can fix it in Conference. Thank you."

Representative Sagum 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 Sagum's written remarks are as follows:

"Mr. Speaker, please note my reservations on SB 96, SD3, HD2: Relating to the Department of Education."

"While I am cognizant of the cases of drug use allegations against teachers, I still feel that basically, MOST teachers are law abiding, honorable members of our community. This bill is a classic case of "punishing the whole class for the wrong-doings of one individual."

"Therefore, while I support the intent of the bill to create a safe teaching/learning environment for our children, I am not convinced that controlled substance testing is the proper or only answer. Thank you, Mr. Speaker."

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

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

"I will vote aye with reservations. I'd like to see a stronger bill and I would like to see us consider the use of dogs. Thank you very much."

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

Representative Cabanilla rose to respond, stating:

"Thank you, Mr. Speaker. Still in strong support and I just wanted to comment on what a previous speaker said the union should decide the policies on how we do drug testing. I think this body should be, as we call ourselves, the 'lawmaking body'. That we should be the one writing these laws about drug testing.

"And I am strongly in support of random drug testing so we can do away with this reasonable suspicion. I think that if we're working with children, that it should be part of your job to turn in for drug testing when called upon. This body had been very, very generous in protecting our children in Hawaii. And this should be one of the statements that we make. That we should police them ourselves that deals with them.

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 96, SD 3, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF EDUCATION," passed Third Reading by a vote of 45 ayes to 6 noes, with Representatives Berg, Bertram, Hanohano, Morita, Sonson and Wakai voting no.

At 12:02 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1853, SD 2, HD 2
 S.B. No. 1674, SD 1, HD 2
 S.B. No. 946, SD 2, HD 1
 S.B. No. 95, SD 1
 S.B. No. 1068, SD 1, HD 1
 S.B. No. 96, SD 3, HD 2

At this time, the Chair announced:

"Members of the House, we will take a one hour recess for lunch and we will reconvene at 1:00 p.m."

At 12:02 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 1:15 o'clock p.m. with Vice Speaker Karamatsu presiding.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1877) recommending that S.B. No. 994, SD 1, as amended in HD 1, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 994, SD 1, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

Representative Awana's written remarks are as follows:

"Mr. Speaker, I am in support with reservations. This measure proposed to expand the Enterprise Zone laws to include a business that produces air conditioning from a seawater air conditioning cooling system.

"While the intent of the Legislature is to encourage businesses to expand their employment base, I question whether or not they will be willing to employ those who are currently unemployed in the Downtown area. Economic growth at the cost of bringing an outside corporation and hiring those outside of the Enterprise Zone district is not what I believe is the original intent of an Enterprise Zone. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I'm just rising in support with some reservations. This bill is dealing with this company that's doing the seawater air conditioning cooling system. They received a SPRB from this body some time back. They've been added on as somebody that should do a tax credit because they're using energy that is not fossil fuel. Now we're creating enterprise zones. I just think that I'd like to see a little more independence from these people. It seems like they're constantly coming back for more help of some kind. I don't know who's behind it, but I can't remember a company that has had legislation moving through the legislature for so many years. Thank you, Mr. Speaker."

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

"On the same measure, Mr. Speaker. I will be voting yes with reservations and my reservations are similar to the Minority Floor Leader. The seawater company has received authorization for a special purpose revenue bond and in addition they are now seeking a tax break. Thank you."

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

"Thank you, Mr. Speaker. With reservations with similar concerns, as well as the concerns of the Representative from Nanakuli.

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 994, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SEAWATER AIR CONDITIONING DISTRICT COOLING SYSTEMS," passed Third Reading by a vote of 49 ayes, with Representatives Bertram and Souki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1881) recommending that S.B. No. 138, SD 1, as amended in HD 1, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 138, SD 1, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 138, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DIAMOND HEAD STATE MONUMENT," passed Third Reading by a vote of 49 ayes, with Representatives Bertram and Souki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1882) recommending that S.B. No. 1923, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1923, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"On 1882, I just want to register my reservations. My feeling is this bill is a reaction to the situation in Kakaako Makai a couple years ago and I'm afraid maybe we've overreacted."

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

"Mr. Speaker, on Stand. Com. Rep. No. 1882, please. I am rising in opposition to this measure. Thank you, Mr. Speaker. A few years back we had the situation in our community regarding the Aiea Library monies being released and being able to do a land swap. And what had happened was we got down to the wire. The previous Governor did not approve the measure, and so when the new Governor came, we tried to approach it trying to do a purchase of the land. In this case, this was something that the Aiea Representatives were very much for; this particular acquiring of this piece of land. And without the ability to just get it through the Executive, which we wouldn't have been able to I believe do this procedure in time before the expiration date. So I just, I'm voting no on this."

Representative Thielen rose in opposition to the measure and asked that the remarks of Representative Rhoads 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, stating:

"I'm standing in strong support of this measure. For those of you who recall, there was an exchange of land that was approved, or actually we failed to disapprove, because the system now currently is that we have to disapprove by concurrent resolution, when there's a land exchange.

"There was an exchange of agricultural land in Maui being done with Maui Land and Pine in exchange for land in Waipahu. At that time I objected to it because they were promising that this 126 acres of land in Maui, they say that's useless for agriculture, that was being exchanged for something that's more useful in Waipahu. But you know, many years have passed by now and the land in Waipahu actually grew. Some time after that, we acquired more land in the industrial area in Waipahu. It's nice for, I guess for the State to encourage, I guess the DLNR to have different kinds of land within their inventory. However, because we don't have any oversight in the process, it was a done deal by the time it got to us, and we really could not convince the Members to disapprove it. And as you see, we still have this land in Waipahu, and I don't know how it passed or how it passed us that it now is actually doubled the amount of land that we own.

"The argument for it was that we will be able to have someone rent the property at \$11,000 a month. Well, I don't think we have achieved that goal yet. And I know that Maui Land and Pine now sits on prime ag land and they have developed it. I think the estimate was each acre of those 126, at least the usable portion, was being subdivided so that each acre was maybe around \$3 million. So you want to buy land in Waipahu, land swap that land from Waipahu, without any oversight from the Legislature. I think that is what this bill is trying to cure.

"I think we do have to have an oversight, especially when we're dealing with public lands, public trust lands. We want to make sure

that the State is getting their money's worth for these land exchanges. And I do support this legislation and I hope that Members not take a look at this as a reaction to something that has recently occurred. Review the history. Because of our lack of oversight, the current process, there has been many land exchanges where the State actually suffered the consequence. Thank you very much, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1923, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LANDS CONTROLLED BY THE STATE," passed Third Reading by a vote of 43 ayes to 6 noes, with Representatives Ching, Finnegan, Marumoto, Meyer, Thielen and Ward voting no, and with Representatives Bertram and Souki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1884) recommending that S.B. No. 1500, SD 3, HD 1, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1500, SD 3, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you. Mr. Speaker, this is making an emergency appropriation for the Department of Taxation county surcharge implementation costs. Mr. Speaker, I'm with reservations on this because this appropriation will implement the GET tax increase collection for the rail project. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1500, SD 3, HD 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR DEPARTMENT OF TAXATION COUNTY SURCHARGE IMPLEMENTATION COSTS," passed Third Reading by a vote of 49 ayes, with Representatives Bertram and Souki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1885) recommending that S.B. No. 1221, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1221, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL TAXATION," passed Third Reading by a vote of 47 ayes to 2 noes, with Representatives Berg and Wakai voting no, and with Representatives Bertram and Souki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1886) recommending that S.B. No. 898, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 898, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HIGH TECHNOLOGY TAX INCENTIVES," passed Third Reading by a vote of 49 ayes, with Representatives Bertram and Souki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1887) recommending that S.B. No. 1034, SD 2, as amended in HD 1, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1034, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading

by a vote of 49 ayes, with Representatives Bertram and Souki being excused.

At 1:26 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 994, SD 1, HD 1
 S.B. No. 138, SD 1, HD 1
 S.B. No. 1923, SD 2, HD 2
 S.B. No. 1500, SD 3, HD 1
 S.B. No. 1221, SD 2, HD 2
 S.B. No. 898, SD 1, HD 2
 S.B. No. 1034, SD 2, HD 1

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1888) recommending that S.B. No. 613, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 613, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. I'm speaking with reservations. Thank you. Mr. Speaker, this has a lot to do overall with early childhood, but it also addresses some issues with junior kindergarten, the pilot project that we approved and passed out. I did want to talk a little bit about that.

"I had the chance to review the report for the HEPC Annual Meeting, this is the Hawaii Educational Policy Center, in regards to the junior kindergarten pilot program. They did a whole report and I guess the concern that I have is a concern that I mentioned when we passed out junior kindergarten in the first place. And that was the reservation that here we are. We like a program. But a lot of the time when we're talking about programs, instead of having it implemented statewide, you really need to have people at the school level that are passionate about that program for it to work properly.

"The model program that we used, and I can't remember the name, but we did go and visit the school over on Maui and they had a wonderful program having to do with junior kindergarten. The problem that I see is the passion that was behind the counselor that started up that program in Maui is not in all the different schools that have the junior kindergarten program right now. Although they would like to try it, this is not necessarily their focus.

"And so what you have back in this report from the HEPC Annual Meeting, when they reviewed this, they took an evaluation of the experiences of the 2005-2006 pilot junior kindergarten schools. and as I read through it, in a nice way, they basically a lot of the feedback and a lot of the information in here that basically gave said there was lack of guidance. And if I could just sum it up in one word it was basically, confusion. A lot of the different schools were just confused because you had a lack of guidance and resources and all of these other things, but they were required to participate in it. And what we try to do in this bill in regards to junior kindergarten is say, 'Okay, well let's try and fix it on this level,' when really, if you want to have a successful program, it has to start from the bottom up. It has to be where these folks know what's in front of them. They know what they're getting into. They want to see it done and that's why you had such a successful program in this elementary school in Maui.

"And if you look at the different implementations of how junior kindergarten was done in some of these other schools, and the way that the pilot program or the originating program was done in Maui, it's hands down very, very different. In fact, one of the comments that they had in this report was basically how, actually DOE, one of the fundamental parts about assessing, which the Maui school does on a regular basis, before you come into the school and everything,

DOE is actually against it and they said that there is no scientific background on it. That is one of the fundamental parts of the program that was successful. So I don't know how this is going to work out, whether or not we have people on board to do it.

"I do appreciate the hard work in junior kindergarten. I do appreciate what everybody's trying to do. I'm not sure if this is the vehicle in which we're supposed to be doing it and we're actually trying to make it work, and I'm not sure if the people at the school level believe in it yet. So I'm going to be voting with reservations because there are other measures in regards to early childhood education in here, but if Members could just take a look at the report because I think it's enlightening.

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

"Thank you, Mr. Speaker. I rise in support of this measure. With all due respect to the concerns that all of us have regarding junior kindergarten. This measure is a work in progress and it offers a cornerstone of a taskforce that early childhood education has been working with and for, for the last two years. The Hawaii Revised Statutes 302A, 409 and 410 establish a policy that the Department of Education shall develop a plan for quality voluntary education no later than January 1, 2000. The State has been waiting for seven years so far for the Department of Education to create an early learning program. With the ongoing efforts of the taskforce it is believed that this particular measure is going to anchor the cornerstone for a system that starts with 4 year-olds.

"The plan that the DOE was supposed to have created by the year 2000 would have focused on children from ages four through six, based on the current national standards and needs of Hawaii's children, etc. etc. And our Session Laws of last year actually established the four cornerstones that we hold to be the foundation for an early learning system. One, looking at junior kindergarten, not as a program, but rather as a structural component of the Department of Education's movement of children going into the regular school system. An extension of parent interaction programs. And the necessity to have teacher standards and quality teachers in classrooms.

"So I encourage actually all of my colleagues, as the previous speaker said, to look at the materials that we have before us regarding early childhood and know that this is a work in progress. And we will have some cornerstones laid out very definitely by the end of this Session."

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

"Thank you, Mr. Speaker. I'm rising in support, but with reservations. We heard this bill in Finance and it was often hard to figure out who was for the bill. There was somebody there from the Good Beginnings Alliance. They supported some things and not others. Early Learning Educational Task Force, they supported the intent, but they had other problems. The Department of Education did not support the bill at all, and the Hawaii Down Syndrome Congress offered comments.

"So we asked quite a few questions because it was pretty hard to tell who in that room was really behind this bill. But as the Representative from Aina Haina expressed that it is a work in progress, so hopefully when we get down to the end, it will please a fairly large number of these advocates. 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. 613, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 49 ayes, with Representatives Bertram and Souki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1889) recommending that S.B. No. 871, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 871, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

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

"I will vote with reservations. I'm on the verge of going no, but I'll stay with reservations on this particular bill. One of the reservations is using the Environmental Management Special Fund. Some of the testimony was basically saying how this is being depleted. I'm not sure if there will be support from this Fund for this program.

"But the major concern for me, I think is that again, I've mentioned this last Session, that one of the problems they have is as we try to go away from the centralized bureaucracy part with Act 51 or whatever vehicle you want to identify, this particular one, what it will have to do in order to have a statewide coordination or to have that kind of effect where DOE is responsible. We have to fund a position or whatever it is, and eventually if we do enough of those, we are actually adding to that, quote, unquote, 'central bureaucracy.' And I thought that that's what we're trying to go away from.

"That although these things have a lot of merit, where we want to see food waste recycling and solid waste recycling, what we have to keep in mind is we're actually talking out of two sides of our mouth. We're basically saying, 'Yes, yes, yes. Let's have DOE be responsible. Therefore we will add some more positions.' But, 'Yes, yes, yes. We want the schools to be able to have this money and decide on what is important for them.'

"I just think that we have to as a body, we should give the right signals on what we want to do. Then in the communities, if we do what we say we want to do, which is give the communities more control, then we will be able to say when they make their decisions to not have waste recycling or to not have other programs. Then there's some accountability there because they can go to their local principal or community and say, 'Why don't you have these?' And then the principals and the community can say, 'Because we chose other things that were more important'. At this point in time, this not in the direction that I think we all said we wanted to go in. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I also rise with some reservations on this bill. Like the previous speaker, part of my concern is that the money is coming out of the Environmental Management Special Fund. Also, there are a lot of loose ends in this bill. We have to understand what we're trying to accomplish and really what will the pilot project look like. And we don't have a handle on the cost of this project. So this bill needs a lot more work."

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

"Thank you, Mr. Speaker. I'll be voting no on this bill. This was somebody's good idea. I think the schools have their hands full with No Child Left Behind and trying to get kids up to speed. And our passing a bill that requires a pilot project in one or more school districts when you've got the Department of Education not in favor of it, and the Department of Health opposed to the bill, the only person was in favor was a company called EcoFeed. I don't know what's in it for them.

"But if you're trying to teach kids that food waste in the garbage and the cafeteria can be recycled, they can do that on their own if they want to set up a compost area. Maybe one teacher in the school would like to do it. Food waste, if it's not meat, is great. You mix it with lawn clippings and leaves, wood chips, whatever they have. It's a good resource, but I can see why the Department of Education doesn't want to fool with it and the Department of Health doesn't want to take money out of that special fund. So I think this is unnecessary. Thank you."

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

"Thank you, Mr. Speaker. Mr. Speaker, I also rise with some reservations and the reservations were already stated by the representative from Kauai so if I could have her words inserted as my own," and the Chair "so ordered." (By reference only.)

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

"Thank you, Mr. Speaker. I rise in support with reservations as well. And hope that in the name of sustainability and in looking at how to become more self-sufficient, all of our Executive departments would review their policies and their methodologies of recycling all sorts of waste. Thank you."

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

"Mr. Speaker, with reservations. And I have to say I agree with comments made by all the speakers on this measure."

Representative Belatti rose in support of the measure with reservations, and asked that the remarks of Representative Morita 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 S.B. No. 871, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO FOOD WASTE RECYCLING," passed Third Reading by a vote of 47 ayes to 2 noes, with Representatives Hanohano and Meyer voting no, and with Representatives Bertram and Souki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1890) recommending that S.B. No. 885, SD 2, HD 2, as amended in HD 3, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 885, SD 2, HD 3, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. I won't belabor this issue, but I just want to do mention that this also is along the lines of the previous bill in regards to points I was making about mandating, helping the DOE establish something. Whenever you give them that, they can't concentrate on the other things. They have so many things on their plate. At times, I'm a critic of how they manage the system overall. But I've got to say that we are partially to blame when we have these types of issues come up and it's not necessarily the priority of a particular school.

"I stand in strong support of agriculture and culinary arts programs in general. Throughout our school system, we have a great one at Radford High School. I believe that there are others in other areas as well. Let them do it. And let us take, if other schools want to work together with schools that have implemented these types of programs, then great. I think that that's what they should do because if you don't have the people at that particular school that have the

passion to do this, then you're basically using or having the money spent not in the most effective way.

"So I am standing with reservations on this and just hope that we start to look at these things a little differently. Thank you."

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

"Thank you very much, Mr. Speaker. I stand in support and I also have some slight reservations as mentioned by the Minority Leader as well. As we know, there are measures also this year that would establish what's called STEM Academies in 14 high schools, which is sort of a mandate on these schools as well, to carve out very limited resources. Overall, I think providing opportunities and options for all our students is a good thing. Again, the devil's in the details. This is the proverbial work in progress, just like these STEM Academies and the HIEST Academies, and robotics, and all the happy good stuff that has been promoted as well. So we'll see what comes up at the end of Session. Thank you, Mr. Speaker."

Representative Finnegan rose to respond, stating:

"Mr. Speaker, with reservations and, *touché*. I think that that's a very good comment. That's why with this STEM program that is actually developed from and originated from the community colleges with their input, that hopefully what that will do is if there is no one interested in that program or has the passion for that program, then that program will fall flat. It does do a wonderful job at recognizing all the different schools that have the STEM program and are making significant affects within our education system."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 885, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 48 ayes to 1 no, with Representative Meyer voting no, and Representatives Bertram and Souki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1891) recommending that S.B. No. 1614, SD 1, as amended in HD 1, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1614, SD 1, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

Representative Awana's written remarks are as follows:

"Mr. Speaker, I am in strong support. This measure will appropriate funding for the implementation of a new human resource management model at Waianae High School and its feeder schools to confront the teacher retention problem at the Waianae schools. If successful, this program will allow the DOE school system to recruit highly qualified teachers system wide. In addition, human resource goals will include: the establishment of clear expectations to teacher performance, professional development with career focused opportunities and an induction program to acclimate new teachers to the area.

"In closing, this proposal is vital for the Waianae coast. It will help to recruit and provide highly qualified teachers who will improve the education of the school system and increase the opportunity for students to achieve their dreams. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1614, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION,"

passed Third Reading by a vote of 49 ayes, with Representatives Bertram and Souki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1892) recommending that S.B. No. 1820, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1820, SD 1, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, I'm in opposition to this particular measure mainly because it will cost the State more to build these educational facilities and the interest rate is higher. So I think we should stick to the traditional way of financing our educational infrastructure."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1820, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF EDUCATION," passed Third Reading by a vote of 47 ayes to 2 noes, with Representatives Marumoto and Meyer voting no, and with Representatives Bertram and Souki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1893) recommending that S.B. No. 1932, SD 2, as amended in HD 1, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1932, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 49 ayes, with Representatives Bertram and Souki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1894) recommending that S.B. No. 992, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 992, SD 1, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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 am in support with reservations on SB 992, SD1, HD2. The purpose of this bill is to clarify that naphtha sold for the use in a power-generating facility will be assessed a 1-cent per gallon fuel tax. Apparently, there has been confusion about that fact. Currently, naphtha is the only liquid fuel when used for electric-power generation whose taxation is not explicit.

"For those of you who are uncertain as to what naphtha is, think of Coleman lighter fluid, or the fluid in your cigarette lighter. A Zippo uses naphtha, for instance. Another usage is aviation fluid. These are just some of the examples of naphtha. But the most common usage of naphtha is in the feedstock industry. So we have a number of people in the agricultural industry and other small businesses who are affected by this bill.

"The question I have is whether we are creating consistency in our tax laws, or actually giving users of this fuel a tax break. If we are

creating consistency, then I'm for it. If we are creating a tax advantage, then I believe this bill needs to be called into question.

"Those are my thoughts. 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. 992, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ENERGY," passed Third Reading by a vote of 48 ayes to 1 no, with Representative Brower voting no, and Representatives Bertram and Souki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1899) recommending that S.B. No. 162, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 162, SD 1, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, I rise with slight reservations on this bill. My reservation is a very simple question. Is Iolani Palace going to be renamed by this bill? Will it be the Museum of Monarchy History or will it be both? The people I've talked to really like the name, 'Iolani' so I state my reservation with a question.

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

Representative Sagum's written remarks are as follows:

"Mr. Speaker, I am in strong support of SCR1899, SB162, SD1, HD2: Relating to Iolani Palace

"Mr. Speaker, the purpose of this bill is to designate Iolani Palace as the State of Hawaii Museum of Monarchy History and exempt the Palace from standards and conditions related to the receipt of funds contained in Chapter 42F (Grants and Subsidies).

"Iolani Palace deserves dedicated financial support from the Legislature, and SB 162 may be the vehicle to do this. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I do have some reservations because it appears like they're changing the name of Iolani Palace. I have some other concerns so I'm voting with reservations and will like to have these remarks inserted in the Journal," and the Chair "so ordered."

Representative Meyer's written remarks are as follows:

"I am in support of SB162 SD1 HD2, which would support Iolani Palace by making it also function as the State's Museum of Monarchy History, and helping it receive grants and subsidies for that purpose. The history of our monarchy is an important record of our past which should be preserved and passed on to future generations. I do have a concern with how the bill is worded because it appears that the Palace would no longer be referred to as Iolani Palace, but the Museum of Monarchy History. That may be an unintended consequence."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 162, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO IOLANI

PALACE," passed Third Reading by a vote of 49 ayes, with Representatives Bertram and Souki being excused.

At 1:49 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 613, SD 2, HD 2
S.B. No. 871, SD 2, HD 2
S.B. No. 885, SD 2, HD 3
S.B. No. 1614, SD 1, HD 1
S.B. No. 1820, SD 1, HD 2
S.B. No. 1932, SD 2, HD 1
S.B. No. 992, SD 1, HD 2
S.B. No. 162, SD 1, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1900) recommending that S.B. No. 1756, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1756, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO IMPORTANT AGRICULTURAL LANDS," passed Third Reading by a vote of 47 ayes, with Representatives Bertram, Chong, Souki and Thielen being excused.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1901) recommending that S.B. No. 1400, SD 2, HD 2, as amended in HD 3, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1400, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO FINANCIAL ABUSE," passed Third Reading by a vote of 47 ayes, with Representatives Bertram, Chong, Souki and Thielen being excused.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1903) recommending that S.B. No. 1636, SD 2, HD 2, as amended in HD 3, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1636, SD 2, HD 3, pass Third Reading, seconded by Representative B. Oshiro.

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1636, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO SUBSTANCE ABUSE," passed Third Reading by a vote of 45 ayes to 2 noes, with Representatives Manahan and McKelvey voting no, and with Representatives Bertram, Chong, Souki and Thielen being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1904) recommending that S.B. No. 1365, SD 2, HD 2, as amended in HD 3, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1365, SD 2, HD 3, pass Third Reading, seconded by Representative B. Oshiro.

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

"I rise in strong support of this measure. Mr. Speaker, this is another one of those innovative, creative measures for our future. It's a bill that will hopefully take us from the economy of land

development, to that of human resources development and puts stress on entrepreneurship, innovation and risk-taking. That is if we're going to be ready for the big wave of the global economy that's going to hit this island.

"This bill has been somewhat misunderstood, it's been characterized a little bit slightly differently, but basically it's a soft mandate to ask the ERS to invest in Hawaii's companies. And that is to encourage those that are promising, emerging companies, promising emerging companies means that they're not upstarts. They're not new risky businesses. They are those that have already got out of the chute and are off and running.

"Presently, the ERS has 5% or \$500 million that it has allocated for these, 'alternative investments.' The only downside is that \$360 million of that is invested now, but it's invested offshore on mainland companies and not one penny is in any of the Hawaii companies. This bill will not force the ERS, I repeat, this bill will not force the ERS to invest in Hawaii companies. It will run the same stringent profitability, feasibility, balance sheet, cash flow, profit and loss statement, and strictly as they would any other investment. It's simply saying to give the Hawaii companies a chance. And Mr. Speaker, if we don't believe in our own companies, who is going to be able to do that?

"This bill will kick in where Act 221 and Act 215 has already jumpstarted the high-tech industry. The difficulty is once those high-tech businesses start getting off the ground, they go from a \$1 to \$2 million financing need, to a \$5 million need and above. And generally, this is when they leave Hawaii because that's where the money is, and that's where they're relocating. Unfortunately, when they leave, we lose jobs and we lose our tax base.

"On the contrary, this bill will have a brain gain rather than a brain loss, in terms of attracting companies, as well as keeping the high paying jobs here. The rising stars that we want to keep are the ones that we need this bill to send to message. These are those in the Hawaii business community. These are those listening on the mainland and in the world for what Hawaii's going to do. This is a shot across the bow for high tech companies to seriously look at us.

"Mr. Speaker, this bill could create the future Bill Gates. Could create the Oracles. It could help create the high paying jobs that everyone in this body very, very seriously desires to have happen. This is a creative innovative thing. It's about our future and I thank everyone for voting for it now, and when it comes up for the Final Reading in a number of weeks. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. Just in strong support and I ask that the words of the Representative Hawaii Kai be inserted as my own. I'd like to just say, 'Buy Hawaii, Invest Hawaii'. Thank you."

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

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

"Thank you, Mr. Speaker. I rise with some reservation. I just wanted to refute the argument that this is a creative and innovative idea. It was done nine years ago under different a type of packaging, with the same type of language. It was not a good idea then. It's not a good idea today."

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

"Mr. Speaker, I also rise with reservations. This bill started out as a recommendation by the Governor that we have the ERS allocate \$100 million for these investments. It has since then morphed in the

Senate to an unspecified amount and now it is before us as a 3% allocation to Hawaii companies. What I would like to note, and I disagree with the speaker from Hawaii Kai, the total global ERS investments in venture investments at this time, as I understand it, is 2.5%. As this moves forward, I do think that there may be some merit to it, but I would like to see that percentage dropped lower to reflect a more prudent approach to spending our employees' pension funds."

Representative Berg rose in support of the measure with reservations, and asked that the remarks of Representative Belatti 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, stating:

"Thank you very much. In strong support. The bill supports local businesses, and I'm in strong support for that notion. There is I guess, a misconception of the data here. There's actually \$12 million that's already a part of the AI portfolio that's helping. It's not allocated, but won by a company through the process that is existing. What the bill tries to do is try to encourage more of the money that's being used for AI, that's alternative investments, to ensure that Hawaii gets a primary look or a careful look by the managers.

"What has been happening is that the Board is charged with this fiduciary duty to make money. The Board is doing a great job. If you only look at that, that their only job to the members is to make money, then we should not fight them if they want to invest in this kind of investment when it's bringing in 20%. What is prudent according to the experts is that with \$10 billion in assets, is that they can invest up to three to five percent of that in AI. And when we go back and say if what the Board really wants to do is to get the maximum amount of money back for beneficiaries, who are the retirees, then that's why they invest in petroleum assets in Sudan, and of course we don't agree with that.

"It doesn't matter how much money you're making. It shouldn't go to that point. But on the other hand, we're trying to tell them again here, 'Look. You are investing this amount of money outside of Hawaii anyway. Why don't you try to take a second look at the opportunities here for the benefit of our economy. For the benefit of the people of Hawaii. For the benefit your own beneficiaries who have to live here anyway.' We're not telling you to invest in a dangerous situation. Make it so that you have the same standards as you look at other companies outside of Hawaii. This measure is to ensure that the managers that are being appointed, being contracted, that they can still fulfill their fiduciary duty which is to make lots of money, but we're telling them if you can make a lot of money in Hawaii just as well as you can make money in Sudan or any other place using the same methods, please consider Hawaii. So that's why I'm in strong support of this measure. Thank you very much."

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

"Thank you, Mr. Speaker. I'm rising in strong support of this measure. And I do agree that as far as the money from the ERS, I would rather see instead of a percentage like is in this bill now at 3%, just a dollar amount like the Governor had in her original bill dealing with funding for these innovation programs. And I think it would be a more conservative approach. So, perhaps as it moves along we can get that down to a dollar amount which was \$100 million. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In strong support. Thank you, Mr. Speaker. You know, it was really enlightening for me to be a part of the previous Committees. I think it was our TAC and EDB Committee jointly with Education. Anyhow, when questions were

being asked about how we have exercised our fiduciary duty, the ERS representative was basically explaining about some of the different types of AI or alternative investments they have made. Some in timber, and supposedly if I remember correctly that there was a major loss in that. Not here, not a local business. And we also discovered that there were, there was a Hawaii based company that went abroad to the mainland and actually got investment monies from another retirement system, state retirement system and it's doing very successfully.

"The points that Representative from Waipahu mentioned in regards to Sudan and that sort of thing, I think rang true to me. We do have the option, and basically what we're asking them is just to kind of guide them to say, 'Hey look here. Look here first.' Because if we do invest here, using prudent practices, we're not saying to you know put the blindfolds on and basically give them a chance even though they're higher risk normally than we would take. But this is basically the 3% or 2.5%, whatever we deem as being okay and saying let's give them a chance to be able to go in front of a locally managed investment company so that these guys don't have to go traveling all over to the mainland or whatever to try and make their point to get our ERS investment dollar. I think it's a prudent way to move forward. It's a prudent way to invest in Hawaii companies. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I rise with reservations. The second half of this bill dealing with the University of Hawaii, it is a solid part of the bill. The first part of this measure is somewhat questionable. The bill simply encourages investment. It does not mandate anything. It simply conveys the sentiments of lawmakers, so do we really need a law to go down this road? Wouldn't a resolution suffice?"

"There is a resolution that is already moving forward. That resolution is favored by the ERS Administrator. Mr. Shimabukuro and his trustees do not support this bill. On repeated occasions I have asked the Director of DBEDT to get an opinion from the Attorney General regarding the fiduciary liability on trustees. He has never, over the past two years, gotten that opinion to us. So it is unclear if we remove that liability from the ERS trustees, if ultimately, that liability is placed on the taxpayers. If this idea goes south, are we actually putting the taxpayers of Hawaii on the hook for any potential losses?"

"This was a novel idea nine years ago. It might be an idea we should explore. But I'm not too confident that we actually need a law rather than a resolution to achieve what we want to achieve with this idea. Thank you, Mr. Speaker."

Representative Ward rose to respond, stating:

"Just a slight retort. I think what was said was very well said, and it applies to every investment that the ERS takes. If they go south on anything, they're going to be held accountable. What we've got here is essentially business as usual except, look local. For Hawaii. Ten billion dollars. It's not saying take any more risk than you are doing now, whether you're doing timber on the mainland, or making a lot of money in Sudan. It's saying business as usual, but geographically, Google Earth, come down, look at Hawaii. Be as stringent, as serious as the banks in this community. Look at anybody who gets a loan. We look at every investment. But we don't change our criteria. It's that simple. It's that painless, but it's that much of a benefit in terms of jobs created, tax bases and for a different kind of economy that all of us are so sad saying look all we've got is tourism, we've got military spending. Here's a chance to break out of that without any risks. To me that's a no-brainer, Mr. Speaker. It's business as usual, focused locally. That's the difference. 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. 1365, SD 2, HD 3,

entitled: "A BILL FOR AN ACT RELATING TO THE INNOVATION ECONOMY," passed Third Reading by a vote of 46 ayes to 1 no, with Representative Hanohano voting no, and Representatives Bertram, Chong, Souki and Thielen being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1909) recommending that S.B. No. 1779, HD 2, as amended in HD 3, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1779, HD 3, entitled: "A BILL FOR AN ACT RELATING TO CHILDREN," passed Third Reading by a vote of 47 ayes, with Representatives Bertram, Chong, Souki and Thielen being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1910) recommending that S.B. No. 1642, SD 1, as amended in HD 1, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1642, SD 1, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. I'm rising in opposition to this measure. This bill arose because of a State Supreme Court decision that sided with the City and County of Honolulu quite a few years ago. They took thirteen garbage collectors that were sitting around and doing nothing and at the overstuffed Pearl City baseyard and transferred them to where they had productive work to do at the understaffed baseyard in Honolulu. The labor union involved was opposed to this move to increase efficiency and spend taxpayer dollars wisely. They wanted these thirteen workers to continue to be unproductive and force the City and County to hire new union workers for the understaffed Honolulu facility. Also, the union could increase its membership.

"This bill would set up unreasonable demands by labor unions at the expense of the taxpayers. And the most egregious thing it does is it interferes with the ability of government agencies to manage their personnel in an efficient manner by allowing negotiations over the criteria or basis to be used in management decision making on various employment actions. In short, they are taking the prerogative of employers to transfer employees to different locations. This has always been something that management can do and they want to put that into the collective bargaining process. I think we're making a big mistake if we pass this bill. Thank you.

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

"I can't let that pass by without speaking in support of this bill. This is a very good bill. Yes, the labor bill. SB 1642, SD 1, HD 1, SCR 1910. This bill does not take away anything from employers or management. Employers always have their, the usual say on transfer in those internal matters that the Supreme Court says they have. What is at stake is really the 'how' part. Not the 'what'. 'What' is if you're calling it 'transfers, that's the 'what'. What are you going to do? Transfer people that are sitting around? We are not interfering with that. They can transfer them. We don't want you to proceed with this measure and vote on it thinking that that's what this is all about.

"This has nothing to do with what has occurred in the City and County of Honolulu and the facts in that case are somewhat different from what has been stated on the Floor this afternoon. But let's go back to this bill. This bill clearly says that management can decide the 'what' part. If they want to transfer any person to somewhere else, that's fine. That's their prerogative. The employer can always do that. But the 'how' part which is the criteria procedure. And you

know we have to avoid these major disruptions in people's lives too. And you know, this is a practice that's already out there in the City and County and the other counties etc. anyway. They do this.

"The reason why that this bill is before us is because there have been situations where the Supreme Court case has been used in a manner that's not supposed to be. If you are saying that our decision is final. You can't do anything because ILWU v. Hannemann says you can't. And the law, that was never the holding of that particular case. It was never meant to stop the grievance proceedings on the criteria and procedures, and that is something that is practiced anyway. Thank you very much."

Representative Meyer rose to respond, stating:

"Really I thought somebody would get up. I'd be happy to get up again. The Chairman of Labor seems to think that this is practically nothing new. But in the wording in the bill it certainly is. We've added a lot of new language and it says that this subsection which kind of described employer's rights, this says the subsection shall not be used to invalidate provisions of collective bargaining agreements in effect on and after June 30, 2007. And shall not preclude negotiations over these procedures and criteria, promotions, transfers, assignments, demotions, it goes on and on. It is clearly an effort to put these kinds of decisions under collective bargaining where they have not been in the past.

"In Committee, only the HSTA and the Hawaii Government Employees testified in support. And those that opposed it were the Office of Collective Bargaining, Department of Human Resource Development, the Judiciary, the Department of the Attorney General, the Department of Education, the Department of Human Resources of the County of Hawaii, Department of Personnel Services of the County of Maui, the Department of Human Resources of the City and County of Honolulu. It was strong opposition. The Hawaii Police Department and the Maui Police Department opposed this measure. Bigger minds and a larger group of people than myself, feel this is not a good bill. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1642, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LABOR," passed Third Reading by a vote of 40 ayes to 7 noes, with Representatives Ching, Evans, Finnegan, Marumoto, Meyer, Pine and Ward voting no, and with Representatives Bertram, Chong, Souki and Thielen being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1911) recommending that S.B. No. 750, SD 3, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 750, SD 3, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, I rise with reservations. Mr. Speaker, I'm concerned about a language change that was made in the bill in Finance. The bill initially required counties to establish a criteria for permitting vacation rentals. As many of us know, many of our communities are struggling with this problem. Advocates before the Finance Committee embraced permitting and want to be more regulated. So my understanding is they like that portion of the bill. Now that the bill requires the counties to establish a criteria for the control over vacation rentals, and bed and breakfast establishments. I'm just worried that this may have weakened the bill and it may throw the work regulations into even further unclarity.

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 750, SD 3, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TRANSIENT

ACCOMMODATIONS TAX," passed Third Reading by a vote of 47 ayes, with Representatives Bertram, Chong, Souki and Thielen being excused.

At 2:12 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1756, SD 1, HD 2
 S.B. No. 1400, SD 2, HD 3
 S.B. No. 1636, SD 2, HD 3
 S.B. No. 1365, SD 2, HD 3
 S.B. No. 1779, HD 3
 S.B. No. 1642, SD 1, HD 1
 S.B. No. 750, SD 3, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1912) recommending that S.B. No. 1093, SD 2, as amended in HD 1, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1093, SD 2, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

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

Representative McKelvey 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 support of the measure, stating:

"Thank you, Mr. Speaker. I'm rising in strong support of this measure. I understand the purpose of this measure, which is to assure the health of our ocean ecosystem by appropriating funds for the development of an ocean health consensus project. In other words, to help establish rules that help govern the continued health and wellbeing of our oceans, and requiring that we get consensus from all parties involved. Mr. Speaker, my concern is not about this process, but about who decides what is consensus.

"I think it's important that we receive input from DLNR and from the University of Hawaii, but it's equally important that we hear from those who are culturally and traditionally affected by what goes on in our oceans. That means, Native Hawaiians and our local fishermen. These are people who have been around the waters of our great State for centuries. They know what works and what doesn't. They know where the problems are and they have passionate ideas about solutions. It's important that their voices are heard and heard loudly, and that they are not drowned out by bureaucrats or scientists or others with a political axe to grind.

"Let's make sure that our oceans are taken care of by the very people who are affected the most. I hope we can make this bill more definitive in that context as it moves forward. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1093, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO OCEAN HEALTH CONSENSUS," passed Third Reading by a vote of 46 ayes, with Representatives Bertram, Cabanilla, Chong, Green and Souki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1921) recommending that S.B. No. 837, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 837, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

Representative Har's written remarks are as follows:

"Mr. Speaker, I am in strong support on SB837 SD2 HD2. Mr. Speaker, this bill, amongst other things, authorizes the Agribusiness Development Corporation (ADC) to issue revenue bonds to purchase agricultural land in Kunia and Ewa from private entities.

"Mr. Speaker, I am a strong proponent of preserving our agricultural lands on the leeward coast to promote a thriving and growing community. "To preserve open space, farmland, natural beauty, and critical environmental areas," is one of the principles of smart growth, a concept I support. By passing SB837 SD2 HD2 open space preservation can be achieved and will improve our community's quality of life.

"Mr. Speaker, with all of the development occurring on West Oahu, it is critical to preserve and maintain our agricultural lands to maintain a balance between our *aina* and the projected growth. By supporting SB837 SD HD2, we are following the principles of smart growth for the Kunia and Ewa district. This measure will allow us to do what is *pono* by respecting the land, our culture, and the community. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 837, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Third Reading by a vote of 46 ayes, with Representatives Bertram, Cabanilla, Chong, Green and Souki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1922) recommending that S.B. No. 323, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 323, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HIGH TECHNOLOGY," passed Third Reading by a vote of 46 ayes, with Representatives Bertram, Cabanilla, Chong, Green and Souki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1923) recommending that S.B. No. 707, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 707, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

Representative Belatti's written remarks are as follows:

"I have reservations on S.B. 707, H.D.2 – Relating to a New Markets Tax Credit. While the intent of this bill, to encourage business investments in low-income areas, is admirable, the Department of Taxation's comments on the bill are revealing and raise questions that deserve further consideration.

"For example, the Department notes that, as drafted, it is possible "that only one or two taxpayers in the entire State may qualify" for the tax credit. The Department further states that "[w]hen it appears that the general public cannot reasonably qualify, a tax credit begins

to look more like a directed subsidy to those few that qualify." The Department also raises concerns about (1) how this credit provides benefits to entities that benefit Hawaii, (2) whether this bill has recapture provisions so that the benefit to Hawaii is maintained, and (3) whether a state-run New Markets Tax Credit is effective at producing the intended result.

"As this bill moves forward into Conference Committee, my hope is that these concerns will be considered and addressed."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 707, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO A NEW MARKETS TAX CREDIT," passed Third Reading by a vote of 46 ayes, with Representatives Bertram, Cabanilla, Chong, Green and Souki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1924) recommending that S.B. No. 1804, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1804, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. In support. This measure will provide an additional funding mechanism to the Trauma System Special Fund by adding a trauma surcharge on penalties for various offenses such as speeding, accidents involving death or bodily injury and convictions related to violence under Hawaii Revised Statutes 707 and 708.

"Here, the surcharges do have a logical connection and a nexus to the Trauma Special Fund as said offenses are associated with increased risk of serious injury. In fact, we just got information from Queen's Medical Center this morning that over 50% of their trauma patients have evidence of alcohol or drugs. I believe that the money from the cigarette tax is substantial, but it's not going to be enough. Therefore, the surcharge's additional funding will ensure that we have continual viability of the trauma centers.

"It's not only for Queen's, but this is throughout the entire State. In fact, in 2006, the Legislative Reference Bureau published a report on a crisis in trauma care for Hawaii, and they concluded that the rationale for public support of uncompensated trauma service is the same as for critical police and fire services. The trauma system is a necessary public service that ought to be publicly supported. For those reasons, Mr. Speaker, I support this measure and I hope that all members will 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 in support with some strong reservations. This bill would impose new taxes, surcharges levied with citations for traffic violations, drug use, or various violent crimes. While the underlying purpose of this bill is admirable, improving trauma care, we can pay for this trauma care out of existing general fund revenues. We should not gouge our residents by adding a slew of new taxes when we have the highest per capita State taxes in the nation. It's the highest. I'd say that the people of Hawaii are long suffering. I mean, they are paying big time.

"In addition, the nexus for these fees for the service that would be supported is very, very indirect. I also think because of the statute that was passed last year where the trauma people are getting money from the Tobacco Tax that's barely gone into effect, we should wait and see how much that comes out to before we jump on the bandwagon to find another source of money at the expense of our taxpayers. Thank you."

Representative Mizuno rose to respond, stating:

"That you, Mr. Speaker. Still in support. Mr. Speaker, the surcharge is actually targeted. This is for, as I mentioned earlier, speeding, accidents involving death or bodily injury. This is very targeted. It will also serve as a strong deterrent. So, hopefully, we can pass this measure and send a message to not drink and drive or cause bodily injury to others. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. Could you just note my reservations on 1924, the Trauma Special Fund surcharge, for some of the reasons as the Representative from Kahaluu."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1804, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE TRAUMA SYSTEM SPECIAL FUND," passed Third Reading by a vote of 46 ayes, with Representatives Bertram, Cabanilla, Chong, Green and Souki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1925) recommending that S.B. No. 1919, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1919, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

Representative Shimabukuro's written remarks are as follows:

"Mr. Speaker, I am in strong support of Senate Bill 1919. This omnibus package, which has come to us from the Senate, has three major parts, two of which were subjects of House Bills submitted by our Women's Caucus. These parts relate to the Earned Income Tax Credit (EITC), Financial Education, and the Individual Development Account (IDA) program as a way of encouraging savings.

"Each aspect of this omnibus bill is geared toward assisting lower income people to become more self-sufficient and less dependent on public assistance. The passage of this bill will help those among Hawaii's residents who are in most need of help.

"As is reasonable to ask of any legislation involving appropriations, the question arises as to how this bill—particularly the IDA and Financial Education portions—will be funded. The language of the bill is clear, at least in regard to Part III, the IDA section, that Temporary Assistance for Needy Families (TANF) funds shall be used for this purpose. There have also been discussions with the Department of Human Services regarding the use of TANF monies to fund the proposed financial education program.

"Both the Legislature and the Executive Branch have spoken of the need to relax the tax burden on the most economically disadvantaged residents of our State. While there are differing opinions, along with various legislative vehicles introduced, about how this can be done, the EITC does represent a step in the right direction.

"I urge my colleagues to join me in supporting SB 1919. Mahalo."

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

Representative Belatti's written remarks are as follows:

"I support S.B. 1919, H.D. 2 because it provides targeted tax relief to low and moderate income families. This bill proposes a State Earned Income Tax Credit (EITC) that directly benefits working people. The EITC is designed to reward and encourage work, and it is a proven policy in twenty-one other states at decreasing the disproportionate, regressive tax burden placed on those earning the least among us.

"The Legislature has the opportunity this year to ease the burden on those who struggle the most and, in fact, are working to pull themselves out of poverty. This measure is not simply a hand-out, but a hand-up and a much needed policy to help Hawaii's working families."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1919, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ASSET BUILDING," passed Third Reading by a vote of 46 ayes, with Representatives Bertram, Cabanilla, Chong, Green and Souki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1926) recommending that S.B. No. 1946, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1946, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO DAM SAFETY," passed Third Reading by a vote of 46 ayes, with Representatives Bertram, Cabanilla, Chong, Green and Souki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1927) recommending that S.B. No. 1283, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1283, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, in opposition. I just would like my colleagues to note there was a newspaper article this morning that indicated that one-third of all cancer deaths last year were directly caused by smoking and that unfortunately efforts to curb both adolescent and adult smoking are being hampered by the fact that the tobacco companies are outspending the opposition to tobacco 23 to 1. This bill would make that situation even worse here in Hawaii and that's why I'm opposing it. Thank you."

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

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

"Mr. Speaker, on Stand. Com. Rep. No. 1927, I rise with a no vote. I was going to give my 20-minute speech, but the Representative from Nuuanu suggested that I insert my written comments. So can I have permission to insert written comments? Thank you," and the Chair "so ordered."

Representative Takai's written remarks are as follows:

"I am against this measure. Let me say at the onset that I continue to support the University of Hawaii and the UH Medical School.

"My objection to this bill is based on the old adage: promises made, promises kept. This issue goes back to 1999 when we set up the Tobacco Settlement Fund. It also goes back to the University's

initial commitment to the medical school in 2001. But, it also goes back to commitments made as recently as a couple years ago and, in fact, just a few days ago.

"If we don't hold the University or other departments to their commitments, what good are their promises? And how can we believe them in the future?"

"In 1999, we created the Hawaii Tobacco Settlement Trust Fund. The then Chair of the Health Committee said: "If all goes as planned, someday when we look back on all the issues and measures I have had the privilege of being involved with, this measure, I believe, will be one of those that I will remember as being significant and very important."

"Not two years later in November 2001, when our nation was reeling from the attacks in New York and Washington, D.C., we came back in Special Session to pass a number of measures, including one that changed the initial funding formula for the Tobacco Settlement Trust Fund and diverted 28 percent of funding to the construction of the UH medical school in Kakaako.

"In 2001, we reduced our initial commitment to the rainy day fund from 40 percent to 24.5 percent. More importantly, in 2001, we reduced the money going into the Tobacco Prevention and Control Trust Fund from 25 percent to 12.5 percent.

"The commitment to use 28 percent of the funds for the UH medical school is much more than covering a \$150 million bond float. It's really about spending 300 million dollars! The debt service agreement was originally pegged at \$302 million or around \$10 million for 30 years.

"In addition, the University committed to raising \$150 million in matching funds to cover the cost of renovating the old Bio-Medical Sciences Building, to cover the cost of construction of the new Cancer Research Center, and to cover the operational costs of the new medical school in Kakaako.

"In 2001, I voted against our efforts to erode the promises we originally made in 1999. My vote today is in part because of this. But, my vote against this measure today is much, much more.

"We must hold people accountable for their words, commitments, actions, or, in this case, inactions. I would like to read from a few letters that I have received in the past.

"On March 25, 2003, Dr. Ed Cadman, former dean of the UH Medical School, wrote: "Our best guess would be that operation and maintenance costs of the facility will be between \$6-\$7 million annually. We expect to primarily fund these costs through F&A (facilities and administration) cost recovery from sponsored projects."

"Cadman continued, "We understand (the Legislature's) expectation that the new School campus will be financially self-sufficient and the importance of having the ability to accurately measure and evaluate the School's return on investment."

"On February 25, 2004, David Morihara, former Director of Government Relations, wrote: "We anticipate that a substantial portion of the operating costs of the core facilities will be funded in future years mainly through the extramural facilities and administrative recovery mechanism and secondarily through interest earnings on endowments generated from naming opportunities and a contribution from the ancillary services provided on campus."

"Director Morihara also provided us with a chart explaining the Operating Cost Projections from fiscal year 2005 to fiscal year 2009. The chart shows that there were initial state funds of \$1.8 million to fund the start up of the medical school in FY05. An additional \$3.9 million was needed in FY06 to carry the medical school through a second year of transition. However, in FY07, which is this year, the

operations of the medical school were supposed to be nearly 100 percent self-sufficient. At that time in 2004, their own figures suggested that only \$364,952 was needed in additional state funds to operate the new facilities. They projected needs of \$352,094 for FY08 and \$337,822 for FY09.

"On March 7, 2005, President David McClain wrote: "I do want to acknowledge that with regard to the funding of the operating costs of the research building and the educational building of the John A. Burns School of Medicine at its new location in Kakaako, initial commitments made in 2001 at the time the construction of the new facility was approved have been shown with the passage of time to have been overly optimistic."

"President McClain's comments were welcomed and necessary. Two years ago, he committed to re-doing the financial plans for the medical school. He brought in Professor Shirley Daniels to come up with the new plan. At that time, we approved an additional \$3.7 million for both FY06 and FY07. This temporary funding was placed in our budget as a proviso because the University committed to fixing their balance sheets by June 30, 2007. According to their commitments just two years ago, they were only going to need this \$3.7 million for two years. Afterwards, their financial plans suggested that very little State funds would be needed in this biennium budget for the operations of the medical school.

"So what happened this year? The University requested \$4.1 million for FY08 and \$4.35 million in FY09, in addition to the \$3.7 million in the two-year proviso. Just two years ago, they said that they would need little to no State funds to operate the medical school. This year, they say that they will need \$15.8 million for the next two years in new money! This is absolutely irresponsible.

"A few weeks ago, we passed our version of the state budget. I said then that I would support increasing the medical school base by \$3.63 million and \$3.95 million for the next two fiscal years. Our budget was very generous. The total general fund support to the medical school in our budget is about \$5.6 million each year.

"But the University said that it was still around \$4 million short in operating funds even after our very generous support in our budget. So, what did they do? They now propose making up the difference utilizing this bill.

"I asked Vice President Gary Ostrander what would happen if they did not get the additional \$4 million for each of the next two years. He said that they would be able to survive, but will need to make some reductions to their financial plans. I told him that his comments on right-sizing the budget were the same comments we heard two years ago. Did the University right-size the budget two years ago? The answer is no. If they did right-size the budget two years ago, would we be in this predicament today? The answer to this is no.

"This bill will allow the University to access the leftover monies from the 28 percent annual allotment. The University did refinance the bonds last year. We need to acknowledge and thank them for this. Now, the payment for FY08 is \$6.6 million and the payments for the out years are a little less than \$10 million for each year.

"If this bill passes, the University will realize a lot of money. Next year, with a significant increase in funds going into the Tobacco Settlement Trust Fund, we calculate that the University will realize an additional \$7.4 million! In FY09 and beyond, if this bill passes, the University will receive additional funds in excess of \$3 million each year.

"How can we in all good conscience provide this amount of funds to the University? What we're saying with this bill is that the University is no longer responsible to keep their commitments, no longer required to keep their financial books balanced, because they can always come back to the Legislature if they should fall short. Is this a good message? My answer is absolutely NO.

"I wanted to talk a little bit about our commitment to the Cancer Research Center. Recall that in 2001 when we approved the use of tobacco funds for the medical school that the University's commitment was to provide the necessary funds to construct a new Cancer Research Center facility. Last year, we passed SB 2961, which became Act 316. This bill increased the cigarette tax from \$1.40 per pack to eventually \$2.60 per pack in 2011. Some of this increase was to pay for the construction and operations of the new Cancer Research Center. In fact, the University will receive \$11 million, \$16 million, and \$22 million, respectively, for the next three years for the construction and operations of the cancer center.

"Last year in my Floor speech I said the following: "Years from now when we look back on this particular bill and our allocating of funds for three years to the Cancer Research Center, I don't want us to again be placed in a predicament to increase funding for the operations of these new buildings. The University of Hawaii and their leaders must be held accountable to their commitments. The taxpayers and in this case, smokers, deserve no less."

"Leadership means many different things to different people. To me, leadership means being able to say no to those who promise one thing, but do another. Leadership means being able to tell the University that they need to honor their commitments to make some difficult decisions.

"I want to assure my colleagues that the medical school will not close if this measure doesn't pass. Killing this measure sends a strong message to the University that they must redo the financial plans for the school. I urge my colleagues to vote against this measure."

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

Representative Chang's written remarks are as follows:

"Mr. Speaker, I rise in support of SB 1283, the purpose of which is to support the University of Hawaii's John A. Burns School of Medicine by allowing the UH to use its allotment of moneys from the Hawaii Tobacco Settlement Special Fund to pay for the Medical School's operating expenses, in addition to paying for debt services.

"All of us in the Legislature were very proud – and rightfully so – of our role in helping establish the new Kaka'ako facilities of the Medical School when it opened two years ago. Its development has transformed a blighted, run-down neighborhood into one of the brightest areas of our State, as a showcase for modern medical education and health-related research. It holds the potential for serving as a catalyst for the growth of a medical biotech industry that improves human health and extends human life.

"But the John A. Burns School of Medicine – also known as JABSOM – is much more than a shiny new building.

- It has produced more than half of Hawaii's 3-thousand active physicians. It is taking steps to alleviate the shortage of doctors on our Neighbor Islands by establishing a medical residency in Family Practice later this year at the Hilo Medical Center, and plans to expand this residency to Kona, Kauai and Maui in future years.
- Its annual class of 62 medical students includes some of the best and brightest youth of the State. Our students excel – in 9 out of the past 10 years our JABSOM graduates scored above the national average in US medical licensing exams;
- JABSOM was listed this month in the US NEWS AND WORLD REPORT 2008 Rankings of America's best graduate programs. JABSOM's geriatric medicine program is rated 12th best in the nation – outdoing other medical schools that have far older reputations and far larger resources than Hawaii's. Our program was recognized for its work with senior citizen homes

to improve medical care for our elderly and for its research to help our elderly lead healthy, productive lives.

- JABSOM's faculty are also spearheading research into some of Hawaii's most urgent problems – such as studying the medical consequences of crystal methamphetamine on the human brain and cardio-vascular system; experimenting with medicines that reduce the strong addiction to "ice"; and opening a clinic to assist pregnant women who are addicted to "ice." Today's Honolulu Advertiser headline announced the possible partnership by the Center for Disease Control and Prevention and the UH Medical School. This is another prime example of the type of function that avail the School of Medicine, which could serve as a model for other partnerships.

- The expenditure of Tobacco Settlement Funds on JABSOM is consistent with the Special Fund's goal of preventing smoking and dealing with its consequences. UH medical students and faculty educate high school students about the harmful effects of tobacco through the Student Health Education Program (SHEP). The ill-effects of smoking is a part of its basic medical education curriculum and scientific research. JABSOM's Dr. Elizabeth Tam holds an endowed chair on respiratory health which is leading research into the cause, prevention and treatment of respiratory diseases

"But there is a cost associated with operating and maintaining these facilities. Recent increases in utility rates have hit JABSOM especially hard because of the heavy energy use by its round-the-clock labs and scientific equipment. The annual cost of operating and maintaining the new Kaka'ako facility is about 9-million dollars a year.

"I know there is concern about the level of State support that's needed by the Medical School. That is why we are requiring the UH to complete, as soon as possible, a long-term business plan that incorporates the operational costs of its Kakaako facilities and projected overhead income generated by extramural research and training

"I am ask my colleagues to support SB 1283 because the funds provided by this measure will help JABSOM maintain a standard of excellence that benefits the health of Hawaii's people - now and into the future."

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

"Mr. Speaker, I want to declare a potential conflict. I sit on the John A. Burns School of Medicine Friends Board," and the Chair ruled, "no conflict."

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

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

"Mr. Speaker, I am in strong support of this measure. This bill will allow the University of Hawaii – John A. Burns School of Medicine to pay for operating expenses with any money remaining after debt service for the medical school is paid. Current law requires 80% of the money remaining to be deposited into the Emergency and Budget Reserve Fund and 20% of the money remaining to go to the Tobacco Prevention and Control Trust Fund.

"Although this mechanism was set up in 2001, there has been minimal or no transfer of money to either the Rainy Day Fund or the Tobacco Prevention Fund because there has been, on average, a shortfall for debt service of over \$1 million a year that has been made up by the University.

"Starting next year, in 2008, the State is expected to receive an increase in MSA payments. With the increase, the University will finally have enough money to make their debt service payments. Based on current projections, the amount that would be transferred to the Rainy Day Fund would be about \$3 million. The Tobacco Prevention fund would get about \$790,000.

"Promises made by a former President of the University should not preclude the current President of the University and Interim Dean of JABSOM from exploring different funding options. After all, we bear some responsibility for going along with the proposal of the former President. Let's be fair and open to exploring different proposals considering where we are today.

"The amount we provide JABSOM via this bill may supplant general funds being considered in the budget, so that JABSOM would not get a windfall if the projected increases in MSA payments materialize.

"Let's also be clear about what this proposal does. Under this proposal, the Tobacco Prevention Fund will still get over \$2 million more each year, the Department of Health will receive \$6 million more each year, and the Rainy Day Fund will get over \$4 million more per year.

"Finally, the reporting requirements and sunset provisions of this bill will allow the Legislature to evaluate how each party spends its money. Our ultimate goal should be to determine whether expenditures are effective in reducing tobacco sales and use by the people of Hawaii."

Representative Brower 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 failed to carry, and the report of the Committee was not adopted and S.B. No. 1283, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TOBACCO SETTLEMENT SPECIAL FUND," failed to pass Third Reading by a vote of 25 noes to 21 ayes, with Representatives Awana, Belatti, Berg, Carroll, Ching, Evans, Finnegan, Hanohano, Har, Luke, Meyer, Mizuno, Morita, Nishimoto, Pine, Rhoads, Sagum, Saiki, Shimabukuro, Sonson, Takai, Takumi, Thielen, Wakai and Ward voting no, and with Representatives Bertram, Cabanilla, Chong, Green and Souki being excused.

At 2:25 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1093, SD 2, HD 1
 S.B. No. 837, SD 2, HD 2
 S.B. No. 323, SD 2, HD 2
 S.B. No. 707, SD 2, HD 2
 S.B. No. 1804, SD 2, HD 2
 S.B. No. 1919, SD 2, HD 2
 S.B. No. 1946, SD 2, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1928) recommending that S.B. No. 1920, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1920, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. I would like a ruling on a potential conflict. My second career is in the film industry," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1920, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 41 ayes to 6 noes, with Representatives Berg, Nishimoto, Saiki, Takai, Takumi and Wakai voting no, and with Representatives Bertram, Green, Souki and Tokioka being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1930) recommending that S.B. No. 1823, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1823, SD 1, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

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

Representative Ward's written remarks are as follows:

"Mr. Speaker, I am in opposition to this measure. This bill reduces the appointments made by the Governor to the Hawaii Tourism Authority Board of Directors from all twelve members to only two public members.

"There is no justification for changing the way in which the HTA board members are currently appointed. Testimony from many quarters has been in firm opposition to the changes, and the reasons stated for the proposed changes, are unclear at best.

"Under the proposed changes, there is a lack of an oversight process to ensure gender and ethnic equality and that all appointments represent each of the industries identified in the statute.

"The changes in this bill would exempt the HTA board appointment from HRS 26-34 which requires that "members of each board and commission . . . shall be nominated and, by and with the advice and consent of the senate, appointed by the governor." There does not appear to be justification for this exemption.

"Mr. Speaker, Starwood Vacation Ownership and Hawaii Hotel and Lodging Association both testified that the present appointment process to the HTA has served the State well, and also expressed puzzlement at why these changes are being proposed. Without any firm reasons for the changes proposed in this bill, one would have to conclude that this is yet another shameless example of a Democrat power grab to curtail the Governor's authority.

"Moreover, the bill goes beyond a power grab to a blurring of important distinctions between the legislative and executive branch when it comes to the appointment process by allowing the Speaker of the House and Senate President each to have three nominations to the Board. For the foregoing reasons, I am in opposition to the measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1823, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TOURISM AUTHORITY," passed Third Reading by a vote of 41 ayes to 6 noes, with Representatives Belatti, Finnegan, Meyer, Pine, Thielen and Ward voting no, and with Representatives Bertram, Green, Souki and Tokioka being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1933) recommending that S.B. No. 603, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 603, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 47 ayes, with Representatives Bertram, Green, Souki and Tokioka being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1934) recommending that S.B. No. 1612, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1612, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

Representative Awana's written remarks are as follows:

"Mr. Speaker, I am in support with reservations. I have grave concerns about this particular bill. The term, 'greenhouse gas emissions', is extremely vague. The largest source of greenhouse gas is derived from water vapor which is a natural occurrence and accounts for emissions up to 90%. Is the request to remove moisture from the atmosphere? If not, perhaps the authors of this measure should take a closer look at their desired outcome.

"I believe the need to create yet another "taskforce" at additional taxpayer dollars is unnecessary. There are existing entities who can provide such information. I am quite sure that these taskforce members will refer to the studies done by others to base their conclusions. Instead of creating new reports, let's tap into the research already done by professionals who have or are in the process of compiling their findings relating to the greenhouse gas emissions. Thank you, Mr. Speaker."

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

"Mr. Speaker, with reservations. I just feel like maybe this bill doesn't go quite far enough, fast enough. In Hawaii we are going to suffer probably more than anybody else in the world from global warming when our beaches disappear and the tourists quit coming because we don't have any beaches. That's going to be a big problem. I realize that our greenhouse gas emissions are miniscule compared to the rest of the world, but if we're not willing to lead when we are going to be affected so greatly, it's hard to imagine that anyone else in the world's going to be willing to help us cut back on greenhouse gas if we're not willing to make some sacrifices ourselves. So, while I support the bill, I feel like we probably need to go farther. Mahalo."

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

"Thank you, Mr. Speaker. I have strong reservations, although I'm pleased to see that the bill was amended the way it was. It just seems that there's some kind of hysteria going on in our country. I know I've heard the arguments over, 'everybody agrees'. I don't happen to agree with that. Based on a series of underlying though rarely stated suppositions, if any of these suppositions turn out to be false, their argument for government intervention would have to be treated with extreme skepticism. I'll just mention some of these.

"The theory that the entire earth is getting warmer. The fact is the global mean temperature appears to have risen about six-tenths degrees Celsius over the past 140 years. But much of the older data is suspect. For example, we didn't have any reliable temperatures for Antarctica until recently. Even though that continent has an overwhelming share of all the fresh water on earth, and while the average temperature is up slightly, some areas have cooled. Again,

most of the interior of Antarctica appears to have cooled compared to when we first got reliable readings a few decades ago.

"Another theory. The amount of global warming in the next few decades will be very large. The fact is scientists have projected a wide range of average mean global temperatures for the future depending on the details of the computer climate modeled they use. The reality is that the global climate is an extraordinarily complex subject that is not well understood. Unless these computer models are simply guesses, no one knows what is really going to happen with any degree of certainty.

"Another theory. The warming is almost entirely due to human activities, not natural climate cycles or changes in solar radiation output. The fact is, the earth has undergone wide swings in temperature in the recent geological past, before industrialization had any major impact on atmospheric carbon dioxide levels. For example, Europe appears to have reached roughly the same temperature that we have now during the medieval warm period from about 1000 to 1300 A.D, during the time when solar activity peaked. This was followed by a little Ice Age, from about 1600 to 1850 during the time when solar activity dipped. On a longer time scale, the earth has experienced a series of ice ages over many, many hundreds and thousands of years.

"Another theory. The only important human effect in this warming is the increase in carbon dioxide. The fact is that carbon dioxide is a minor player in the greenhouse effect. Water from clouds and methane gas have a much bigger effect, thus reductions in cloud cover, from forest clearing and methane emissions from livestock could be having a much greater impact on climate than carbon dioxide.

"Another theory. Warming will cause catastrophic effects across the globe. Al Gore in his Oscar winning movie, An Inconvenient Truth, talks about sea level rises of 20 feet and massive increases in hurricanes due to global warming. In fact, actual scientists project sea level rises of just a few inches and have doubts whether global warming would have any significant effect on hurricane frequency or intensity.

"Another theory. There would be no positive effects from global warming. The fact is that the effects of warming would positive for some people or nations and negative for other people or nations. Most people prefer to live places warmer than the global average temperature. Four the most populated countries on earth are China, India, Indonesia and Brazil. A warmer earth might raise the maximum sustainable level of human population. It's absolutely clear that a sudden onset of another Ice Age would almost certainly result in a precipitous drop in human population.

"Mr. Speaker, I have pages of this, but it's so disappointing to see how the press just grabs on to a certain thing and just trumps it all the time, and the other side of the argument rarely gets heard. It really is like, you know, Chicken Little saying the sky is going to fall. We can hardly get a reasonable projection of what the weather will be two weeks from now and yet we're worried about what is going to happen in the next 200 years. I looked at some grafts, the parts per million of ... "

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

Representative Meyer continued, stating:

"... parts per million of CO₂ have not risen that much since before the Industrial Age.

"I'm going to insert all of my remarks in the Journal, but you know, this is one of these politically correct things. People who don't agree with all the hysteria are afraid to open their mouths because others will yell loudly that they are just absolutely nuts and can't they see that everybody agrees. Well, everybody doesn't agree. There are

thousands of scientists that don't agree. Many times we hear about consensus. Science is not decided by consensus. That's what we do in Neighborhood Board meetings and in the Legislature here, but science doesn't go along with consensus.

"So, I think that people are overreacting to this. I'm glad that we've turned this into more of a taskforce. The Department of Health was not in favor of having to take all these regulations and all these readings, but it'll come to that. This is just a giant snow ball that won't stop rolling. I hope I live long enough to see that there are a lot of people that were not quite 'on the money' with this. Thank you, Mr. Speaker."

Representative Meyer's written remarks are as follows:

"I am in support with reservations of SB1612 SD2 HD2. This bill has been toned down from the form it originally was received from the Senate, going from immediate government intervention to reduce greenhouse gases, to a study of whether to do so, which is why I am voting with reservations instead of in opposition. However, the underlying premise being advanced by the proponents of this measure is that massive government intervention is needed in Hawaii to prevent radical destabilization of the earth's climate via global warming caused by greenhouse gases emitted due to human causes. This premise is based on a series of underlying, though rarely stated, suppositions. If any of these suppositions turns out to be false, their argument for government intervention would have to be treated with extreme skepticism. These theories:

"1) Theory: The entire earth is getting warmer.

Fact: The global mean temperature appears to have risen about 0.6 degrees Celsius over the past 140 years, but much of the older data is suspect – for example, we didn't have any reliable temperatures for Antarctica until recently, even though that continent has an overwhelming share all the fresh water on earth. And, while the average temperature is up slightly, some areas have cooled – again, most of the interior of Antarctica appears to have cooled compared to when we first got reliable readings a few decades ago.

"2) Theory: The amount of further warming in the next few decades will be very large.

Fact: Scientists have projected a wide range of average mean global temperatures for the future, depending on the details of the computer climate model they use. The reality is that global climate is an extraordinarily complex subject that is not well understood, and thus these computer models are simply guesses. No one knows what is really going to happen with any degree of certainty.

"3) Theory: The warming is almost entirely due to human activities, not natural climate cycles or changes in solar radiation output.

Fact: The earth has undergone wide swings in temperature in the recent geological past, but before industrialization had any major impact on atmospheric carbon dioxide levels. For example, Europe appears to have reached roughly the same temperature that we have now during the Medieval Warm Period, from about 1000 to 1300 A.D., during a time when solar activity peaked. This was followed by the Little Ice Age, from about 1600 to 1850, during a time when solar activity dipped. On a longer time scale, the earth has experienced a series of ice ages lasting roughly 100,000 years each, followed by interglacial periods lasting roughly 10,000 years each. We have been in the current interglacial period for about 10,000 years. The peak temperatures during the previous interglacial period were higher than current temperatures.

"4) Theory: The only important human effect in this warming is the increase in carbon dioxide in the atmosphere.

Fact: Carbon dioxide is a minor player in the greenhouse effect. Water from clouds and methane has a much bigger effect. Thus,

reductions in cloud cover from forest clearing, and methane emissions from livestock, could be having much greater impacts on climate than carbon dioxide emissions from industry. Further, heat islands created by cities paving over the landscape raises the average global temperature as well, as any barefooted person who steps from grass onto a parking lot on a hot day can attest to.

"5) Theory: The warming will cause catastrophic effects across the globe.

Fact: Al Gore, in his Oscar-winning movie An Inconvenient Truth, talks about sea level rises of 20 feet and massive increases in hurricanes due to global warming. In fact, actual scientists project sea level rises of just a few inches, and have doubts whether global warming would have any significant effect on hurricane frequency or intensity.

"6) Theory: There would be no positive effects from global warming.

Fact: The effects of warming would be positive for some people or nations, and negative for other people or nations. Most people prefer to live places warmer than the global average temperature -- four of the most populated countries on earth are China, India, Indonesia, and Brazil. A warmer earth might raise the maximum sustainable level of human population – the sudden onset of another ice age would almost certainly result in a precipitous drop in human population.

"7) Theory: Government-funded scientists have accurate climate models that, with a high degree of probability, correctly predict the future if atmospheric carbon dioxide levels continue to rise.

Fact: Climate models are just guesses that only roughly simulate an incredibly complex reality. These computer models can't, when run backward, generate the same results as shown in the historical record, including the Little Ice Age in Europe and the Medieval Warm Period. If they can't accurately predict the known past, how can they be relied on to predict an unknown future?

"8) Theory: Climate scientists aren't creatively interpreting data, suppressing the expression of doubts or contrary facts, or making alarmist or excessively simplistic statements that personally benefit their careers and funding.

Fact: A noted environmental biologist, Stephen Schneider, who is one of the scientists pushing for massive government intervention, wrote: "To reduce the risk of potentially disastrous climate change ... we need to get some broadbased support, to capture the public's imagination. That, of course, entails getting loads of media coverage. So we have to offer up scary scenarios, make simplified, dramatic statements, and make little mention of any doubts we might have ... Each of us has to decide what the right balance is between being effective and honest."

"9) Theory: Climate scientists don't make mistakes. The current consensus of opinion must be the truth.

Fact: As recently as the 1970's climate scientists made alarmist predictions that the exact opposite of global warming was likely to occur soon – a global Ice Age – with those alarmist statements personally benefiting them via increased government funding. Science isn't politics – getting more than 50% of the scientific "votes" for a theory doesn't make it correct. Einstein was initially a minority of one when he proposed his theories of relativity.

"10) Theory: The U.S., via federal and state governments, should massively intervene in the marketplace to attempt to reverse the rise in atmospheric carbon dioxide.

Fact: Government meddling in the marketplace has a long and checkered history of producing unintended consequences and failing to achieve the stated goals. The present net value cost of

complying with the Kyoto Protocol has been estimated as high as \$2.5 trillion dollars, borne almost entirely by industrialized nations such as ours.

"11) Theory: Such government intervention on our part would not be counterbalanced by other nations.

Fact: Developing countries tend to be strongly focused on improving the standard of living of their citizens, and less so about worrying about the environment. Countries such as China or India, which are building new coal power plants at a record clip, would have a strong incentive to scoop up any losses of production caused by our restraint. The Kyoto Protocol was rejected by the U.S. Senate by a 95-0 vote, in part because these developing countries were not constrained by this treaty.

"12) Theory: Government intervention would significantly lower the levels of atmospheric carbon dioxide, and the benefits of would outweigh the massive costs to our economy.

Fact: Reducing atmospheric carbon dioxide levels to pre-industrial levels would require eliminating the fossil fuels that power our industrial economies, fuel our cars, provide our electricity, and enable the current level of food supply. Very few people in the U.S. would be happy about a massive population crash via starvation and a return to subsistence agriculture powered by horses and oxen.

"13)Theory: Such lower levels of atmospheric carbon dioxide would, with a high degree of probability, cause lower temperatures.

Fact: It is quite possible that climate scientists are simply wrong about the causes and/or cure for global warming, as they may have been wrong in the 1970's about the imminent Ice Age predicted.

14) Theory: There would be no unintended and unforeseen negative consequences of this government intervention.

Fact: Any seasoned politician knows, or should know, that government meddling in complex systems can go badly awry.

"So, does anyone reading this still believe that all 14 of these theories necessary to justify government intervention regarding global warming are all true? I sure don't."

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

"Mr. Speaker, I stand in support and I have to say after listening to the last speech, I think we must live on a different planet than the Representative from Laie. It reminds me of the arguments we still continue to hear sometimes about whether smoking causes cancer or not. When we hear about the debate, it's not the politicians that are having this debate. It's scientists that are having this debate. And there's been report, after report, after report from the scientific community around this planet at this point that is confirming that global warming is taking place. This is not coming from a bunch of crackpots, but from the top scientists in various countries, both developed and developing countries.

"And look at the type of organizations who have reached this conclusion. You have the United Nations that came out last week and they were concerned that the politicians actually, the bureaucrats as they called them, watered down the findings by the scientists working for the United Nations. You had the organization in Paris, the Intergovernmental Panel on Climate Change, not exactly a crackpot organization, that confirmed that global warming is taking place and demanding that the world act together to address this problem. You have the United States Supreme Court that came down recently in Massachusetts v. the EPA saying that greenhouse gas emissions shall be regulated.

"This is not a political issue. This is an issue about the future of our world, our planet, and the world we are going to leave to our great grandchildren. And, yes, it's easy to just say let's not worry about it now, because none of us are going to be around to really suffer the drastic consequences, although I'd say the 40 days of rain in Manoa, Hurricane Iniki, the weird weather that we experienced around the world has something to do with it, but the real devastating impact will not affect any of us. But isn't it the bold position to be that we make a decision now for future generations because we do care, we do care and something needs to be done.

"Now, I do have some concerns with the bill in its current form where its focus is on scoping, but I think it's a first step and I'm hoping that after this scoping is done, that we will come back and regulate heavy and hard on greenhouse gas emissions. Yes, it will be costly, but doing nothing is costing a lot of money, too, and will cost much more in the future. So, we must step up to the plate, incur those costs and make the tough decisions and work together as states, as a country, and with the rest of the world to address this problem regardless of whether China or India step up now. I believe that with strong leadership shown by our country, they will also cooperate, but it requires everyone working together. Thank you very much, Mr. Speaker."

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

"I rise with reservations. Mr. Speaker, the purpose of this bill is to look at the data, to monitor, to have a look-see at it. But I think when we second guess it, instead of going too far, I think we've probably in our rhetoric gone too far when as a tourist destination, probably one of the best in the world, say that Waikiki is going to go under water. I don't think that is the proper way of interpreting this particular bill.

"And I would remind the good gentleman who just spoke, as well as all of the other intellectuals in this place, that this body was subject, like the rest of the intellectuals of the world, to the Y2K phenomenon, where the best and the brightest of the world said when the year 2000 comes, unless we do this, that and the other thing, civilization as we know it is going to stop because these computers are going to lock. People are going to riot, and food and machinery and electricity and everything is going to go down. Those were the best and the brightest minds that we had in America. I happened to be traveling with USAID in many parts of the world and I asked what happened at Y2K. Even to the farthest part of the world, I could not get anyone to say anything happened at Y2K and they didn't do anything about it.

"My point is let the data be rational and used rationally, rather than with fear and rhetoric that particularly that Hawaii is going to go under and Waikiki is going to be no more. I think that's a misinterpretation of what otherwise we're trying to do with the bill here. Look at the data, let's monitor it, and let's be rational about the way that we speak about it. The gentleman spoke about India and China. Let us also be sober. With India and China and half of the world's population growing at the rate that they're growing, take India and China out of the equation and we are fooling ourselves that Hawaii is going to make a difference. This is a global issue and a federal issue where we can do our part in the State, but we shouldn't over-react. Thank you, Mr. Speaker."

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

"Mr. Speaker, I rise in support. First, I'd like to request the words of the Majority Leader be incorporated in the Journal as my own. Secondly, I just wanted to address some other concerns or actually the opposition. I'm actually somewhat stunned, I guess, by some of the arguments that are used. When you take a look at the scientists, of course, a hundred percent of the scientists are not going to agree on everything because that's never going to be possible. But what we really have is an overwhelming consensus by most of the scientists. As was already stated the Intergovernmental Panel on Climate

Change recently came out and said, "Warming of the climate system is unequivocal.' The most observed increase in globally average temperature since the mid-20th century is very likely, at least 90%, due to the observed increase in anthropologic greenhouse gas concentrations. And there's better scientific consensus on this than there is on any other issue I know, except for maybe Newton's second law of dynamics. That, to me, shows that overwhelmingly, science is behind this.

"I think some of the criticism is regarding: Why should we join on? We're such a small state. What are we going to do about it? Well, that's really missing the core issue. Already on the horizon, we have California and Washington. California, the fifth largest economy in our entire world, even though they're just a state, has agreed to do this and go on a plan towards cutbacks because they see the potential dangers. And what we really need is for other states to start joining in. Is the federal government going to take this on? I would say it's very doubtful.

"What we've seen from our current Administration is a resistant actually, to strengthening our Clean Air Act. Only because of the recent case as cited to by the Majority Leader, Massachusetts v. EPA is there the potential for EPA now to regulate greenhouse gases. But will that actually happen? That is the question that is very speculative and uncertain. We don't know if that's going to happen. If we have the petitioners as they requested for rule making by the EPA, then maybe we'll have that. But will we have that anytime soon? I would say that's probably unlikely. So, instead, this is something the states need to start taking up. This is something that we, especially in Hawaii, need to start realizing there will be a significant impact.

"I think counter to what the Representative from Hawaii Kai said, there is data by the UH Oceanographic Institute that shows that potentially Waikiki, with one meter of sea level rise, will be half under water. Waikiki will be gone. And that is not merely speculative, but that is something that they have researched and demonstrated through their own grants and studies. So I don't think any of these things that we are relying upon is something just floating out there and sort of like this Chicken Little. What we are doing is taking a grasp on our own destiny and realizing that if we are going to care about our State and our world for the future, then we need to start doing something about it now before it becomes irreversible. Thank you."

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

"Thank you, Mr. Speaker. I'm rising in strong support of this measure. Mr. Speaker, I never thought I would be congratulating Hawaiian Electric on the Floor of the House of Representatives. Usually I'm challenging them for their lack of leadership. However, this time it's different. In the latest PBN, there is an article talking about the CEO of HECO, Michael May, and how he clearly understands the impact of climate change and the responsibility of large corporations like his to change their procedure, to change their way of doing business. Because of this, he and the Board of Directors have come out with a much more responsible policy statement of Hawaiian Electric.

"My hope is that the next step is that they will adopt some of the more powerful renewable energy systems, such as wave energy, and they're already are in talks with some of those WEC companies. By WEC, I mean Wave Energy Converter companies. When it's reaching the boardroom of one of our largest companies in Hawaii and reaching the boardroom based upon the science that they have available to it, you know that we are facing a serious situation and you know that those companies won't change their way of doing business unless there is a significant, significant reason for doing so.

"So, I do congratulate Michael May for getting it and understanding that we have climate change, and the impact upon Hawaii will be devastating. We can have the choice and the chance

to be one of the leaders nationally, and also be an international leader in this field. My only concern about the measure is that it's going too slowly, and I would hope that once this passes and gets implemented, that next year we really beef up what we're going to be doing. Thank you."

Representative Morita rose in support of the measure and asked that her written remarks and the remarks of Representatives B. Oshiro, Caldwell and Thielen 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, in October 2001 I was invited to give a presentation before the California Hydrogen Business Council in Sacramento. I opened my talk with the following statement:

In May 1999 I finished my first term as Chair of the House Committee on Energy and Environmental Protection feeling defeated. Saving environmental programs in a down economy was not a priority in the State's budget. And, my only major bill that survived the Legislature was vetoed by the Governor. Dejected, I felt my Committee had no purpose. Things changed, however, on September 30, 1999, when I read an editorial in the *Honolulu Advertiser* entitled, "Catastrophe is just right around our corner." It was my wake up call.

The article commented on three reports released by the United Nations Environmental Program. The reports found that:

- Scientists said global warming will cause severe hurricanes. And, a rise in sea levels could engulf thousands of oceanside communities.
- Tourism run amok is not a long-term economic lifeline for small island nations. Rather, it actually threatens the island's environment if it generates too much solid waste, destroys environmental attractions or depletes natural resources.

Prior to this, I never identified the events I experienced personally as a pattern typical of other island nations. I live in Hanalei Valley on the island of Kauai . . . I have been through two hurricanes within a ten-year period, Hurricane Iwa in 1982 and Hurricane Iniki in 1992. Hurricane Iniki destroyed my family's home. Our homeowner's insurance policy allowed my family the resources to rebuild and furnish a new home, but it came with a sizable increase in premiums and high risk factor.

In 1995, I watched three one-hundred year floods in a ninety-day period from my back porch. The first flood broke the banks of the Hanalei River and created a cut-off, which now flows through my backyard. Although I now have waterfront property, my flood insurance premiums are substantial although my home is built over 50 feet above sea level. The second flood caused me to abandon my car as a flash flood came across the road and stalled the car while driving home. That incident cost my insurance carrier over \$7,000 to repair the car.

I live in one of the major river valleys of Kauai, carved by rain water from Mount Waialeale, the wettest spot on earth averaging over 400 inches of rainfall per year. Several months ago, my husband actually had to get out the hose and sprinkler to water the lawn. I no longer suggest to people the best time of the year to visit because I just don't know when the rainy or dry seasons are any more . . . An environmental and economic disaster is staring not only small island nations but also the State of Hawaii in the face.

"In March 2003, the Antigua-Barbuda Ambassador to the United States, Lionel Hurst said "The most populous and wealthiest of the world face a moral challenge greater than colonialism or slavery. They are failing in that challenge. Men have lost reason in the fossil

fuel economy. . . Inhabitants of small islands have not agreed [to be] sacrificial lambs on the altar of the wealth of the rich."

"As an island state, we have the opportunity before us in this measure to demonstrate our leadership and political will to the rest of the country and other island nations do our part in addressing global climate change issues. We in Hawaii have more in common with the countrymen of Ambassador Hurst than we do with the rest of the country and multi-national oil corporations especially based on the UN reports that spurred the Advertiser editorial in September 1999.

"However, it is unfortunate that eight years later and despite the headlines over the latest assessment of the second working group of the Intergovernmental Panel on Climate Change, which was charged with tracking the impact of global warming on specific regions and species, that the House Minority Leader, the Representative from Laie, still argues that there is no scientific evidence to support the notion of global climate change. I am almost certain that much of the rhetoric from the House Minority Leader can be traced to a disinformation campaign which has its origins from pseudo think tanks and their experts funded by the petroleum industry, mainly Exxon-Mobil. I would like to submit into the Journal a news item from ABC News regarding the amount of money spent by Exxon-Mobil to spread disinformation.

Senators to Exxon: Stop the Denial Democrat and Republican Say Stop Funding Global Warming Doubters
By Clayton Sandell, ABC News

WASHINGTON, Oct. 27, 2006 _ - ExxonMobil should stop funding groups that have been spreading the idea that global warming is a myth and trying to influence policy makers to adopt that view, two senators said today in a letter to the oil company.

In a letter today to ExxonMobil chairman and CEO Rex Tillerson, Sens. Olympia Snowe, R-Maine, and Jay Rockefeller, D-W.Va., appealed to Exxon's sense of corporate responsibility, asking the company to "come clean about its past denial activities." The two senators called on ExxonMobil to "end any further financial assistance" to groups "whose public advocacy has contributed to the small, but unfortunately effective, climate change denial myth."

Phone calls to ExxonMobil were not immediately returned to ABC News. An upcoming study from the Union of Concerned Scientists reports that ExxonMobil funded 29 climate change denial groups in 2004 alone. Since 1990, the report says, the company has spent more than \$19 million funding groups that promote their views through publications and Web sites that are not peer reviewed by the scientific community.

The senators singled out the Competitive Enterprise Institute, a Washington think tank, and the Tech Central Station Web site as beneficiaries of Exxon's efforts to sow doubt within the public about the scientific consensus behind global warming.

"We are convinced that ExxonMobil's longstanding support of a small cadre of global climate change skeptics, and those skeptics' access to and influence on government policy makers, have made it increasingly difficult for the United States to demonstrate the moral clarity it needs across all facets of its diplomacy," the letter said.

The letter says ExxonMobil's efforts to confuse haven't worked everywhere. "It has failed miserably in confusing, much less convincing, the legitimate scientific community," the senators wrote. The letter comes as dozens of major U.S. companies -- including WalMart, Citigroup, and GE -- are set to gather in New York next week for the Corporate Climate Response conference. The conference will provide a forum for companies to discuss their efforts to address global warming -- a topic getting increasing attention in boardrooms across America.

This week, investment bank Morgan Stanley announced it will invest \$3 billion in carbon emission credits and other projects aimed at reducing greenhouse gas emissions over the next five years.

And last month, British mogul Richard Branson pledged \$3 billion over 10 years -- profits from his airline and train companies -- to invest in energy sources that do not contribute to global warming.

"Mr. Speaker, climate change is a very serious environmental as well as a very important moral issue. Senate Bill 1612, Senate Draft 2, House Draft 2 helps to set Hawaii's course of action to do our part in this very challenging global issue. The quality of life for our children and our grandchildren and all future generations is at stake depend on our decisive actions today. Let us not let them down and step up to the plate to shoulder our responsibilities as policymakers."

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

"Thank you, Mr. Speaker. Just some slight reservations, and also I just wanted to remind the Majority Leader that Kahaluu is on this island, and on this planet."

Representative Meyer rose to respond, stating:

"Mr. Speaker, I just wanted to just go through a few other things that I have prepared for today's debate. The idea that scientists can't be wrong, they don't make mistakes. The current consensus opinion must be the truth. The fact is as recently as 1970, climate scientists made alarmist predictions that the exact opposite of global warming was likely to occur soon, the global Ice Age, with those alarmist statements personally benefiting them by increased government funding.

"Science isn't politics. Getting more than 50% of the scientific vote for a theory doesn't make it correct. The United States did not join the Kyoto Protocol and the reason partially was because India, China, some of the developing countries weren't going to take place, and the cost to developing countries was going to be well over \$2.5 trillion. In fact, when this came up on the Floor not to join the Kyoto Protocol, the U.S. Senate by a vote of 95 to 0 voted not to join the Kyoto Protocol. And in recent articles, countries in Europe that did join the Kyoto Protocol to decrease their emissions of carbon dioxide, they aren't meeting their standards at all.

"There is a cost that's involved in this and government intervention can have all kinds of untoward consequences, so, I guess reasonable people can disagree. Thank you, Mr. Speaker."

Representative Waters rose, stating:

"Mr. Speaker, may I propose a floor amendment? No, I'm just kidding."

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

"Mr. Speaker, in strong support. I would like permission to insert this morning's article written by Christine Todd Whitman in the *Honolulu Advertiser* regarding the Supreme Court's decision on carbon dioxide emissions. Thank you."

Representative Lee's submitted the following article:

"COMMENTARY

Supreme Court ruling a welcome first step
By Christine Todd Whitman

Last week's Supreme Court decision concerning carbon dioxide emissions from cars was welcomed by all who regret that the United States has lagged far behind in addressing this serious environmental challenge.

The decision gives the Environmental Protection Agency two choices. It could develop, implement and enforce rules to regulate carbon dioxide emissions as a pollutant under the Clean Air Act. Or, it can seek to demonstrate, using science (real science, not political science) why carbon emissions do not contribute to climate change.

This ruling should herald the beginning of a carbon-constrained U.S. economy. For a moment last Tuesday I thought President Bush might agree. When he said that "whatever we do must be in concert with what happens internationally," I thought the administration might adopt a position on carbon emissions that would bring us closer to the regulation efforts being made by the rest of the developed world.

Then the president continued, "Unless there is an accord with China, China will produce greenhouse gases that will offset anything we do in a brief period of time." True, China will outpace our emissions level, but there was a time when the United States led the world in environmental protection. I hope we are not following China when it comes to environmental policy-making.

Of course, the president is right that we must find a way to reduce our carbon emissions without cutting back on economic prosperity. However, environmental protection and economic prosperity are not mutually exclusive. Over the past 10 years, for example, United Technologies, on whose board I serve, has reduced its absolute energy use by 19 percent while its revenue has grown more than 80 percent.

For guidance on which to base a policy, we can look to the results from the last time the Clean Air Act was amended, in 1990. Those amendments required substantial reductions in the emissions of sulfur dioxide (SO₂), the primary component of acid rain. There was broad agreement that acid rain was seriously damaging our environment. There was less unanimity about the method to be used to achieve the reduction in emissions — a market-based cap-and-trade system.

Controversial among environmentalists and businesses, the trading program had government-set standards for safe concentrations of SO₂, a clear timetable for achievement and strict penalties for non-attainment. In a break from previous approaches, the government said it didn't care how businesses reached the goals, only that they do it on time.

In addition, if a company lowered its emissions below the required level, it could keep the difference for future development or sell the credits to others that hadn't met the standards. The government cared only that the air was cleaned to required levels. If profit motive spurred private-sector actions, fine.

Before I left the EPA, we checked how effective that program had been. The results were startling. Not only had there been nearly universal compliance across all emitters, the levels of SO₂ in the atmosphere were lower than the regulation had required, and the feat had been achieved in about half the time called for at much lower cost than anticipated.

This program was a success because there was a national standard set by the government, certainty on timelines and penalties, and flexibility in how the targets were achieved. While voluntary programs are good, they are not good enough, and we need national caps on greenhouse gases.

In January, the leaders of 10 of America's largest energy, manufacturing and financial services companies — including Duke Power, DuPont and Lehman Brothers — held a news conference with leaders of several environmental groups. They called for government-required action to reduce greenhouse gas emissions, using a market-based system similar to that employed in fighting acid rain. Their call has increasingly been echoed.

Back when he was governor of Texas, President Bush enacted mandatory caps on carbon emissions in his state. During the 2000 presidential campaign, he promised to regulate carbon emissions nationwide. Shortly after taking office, though, he backed away from that pledge. There were good domestic reasons at the time, but those reasons are no longer valid.

Neither the American people nor the rest of the world want this debate to be delayed until the 2008 elections. The temptation to preserve the issue will be great but must be resisted.

Over the past several years, calls for mandatory caps on carbon emissions — from environmentalists, scientists, business leaders, evangelical Christians — have grown. Now the Supreme Court has joined in. Delay is no longer an option. The president and Congress must act.

Christine Todd Whitman was administrator of the Environmental Protection Agency from 2001 to 2003. She wrote this commentary for the Washington Post."

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

"Mr. Speaker. In support and with reservations. Quickly to rebut some of the comments that were made by earlier speakers. One of the reasons nothing happened with the Y2K is because billions, and billions, and billions of dollars were spent fixing the problem. And if we would spend the billions, and billions on global warming the way we had spent of Y2K, maybe we'd be solving this.

"With regards to the comments from the Representative from Laie, the conservative thing to do in this instance is to take the rational concerns of scientists seriously and start to take action while we have time. On most issues I don't consider myself conservative, but in this case I think I am conservative. If you see potential danger coming, you do what you can about it before every single fact is in. Thank you very much."

Representative Ward rose to respond, stating:

"Mr. Speaker. One retort deserves another. The whole point of mentioning that I went to numerous countries and read numerous articles, those who spent billions and those who spent bonkers, zero, nothing happened. It was the intellectual proposition of the possibility that a lot of people made a lot of money, including lawyers and computer companies, etc. But Y2K was not even a pimple. It was a 'blurp', which suddenly nothing happened. And my point is that those of us, particularly those of us who consider ourselves educated in the position and the community, we have an intellectual vulnerability because we understand how to intellectualize fear in how to burrow down and drill down into it. And that's what Y2K syndrome is. You burrow down into it and then suddenly all of the ghosts of fear come and then that's the driver.

"What I'm saying is, let's look at the policies, let's look at the data, let's be rational about it. And those countries that did not put money into it didn't suffer anything. And that's on the record. And suddenly all of the intellectual articles about Y2K and the sudden doom and gloom, they all disappeared. No one still to this day, doesn't talk about because they knew they made a mistake and that's what we don't want to do again. Let's do it irrationally. Let's do it scientifically. But let's let the data talk and not spin it."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1612, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO GREENHOUSE GAS EMISSIONS," passed Third Reading by a vote of 47 ayes, with Representatives Bertram, Green, Souki and Tokioka being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1936) recommending that S.B. No. 11, SD 3, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 11, SD 3, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, I rise in opposition. This measure as it moved into the Finance Committee began as an exemption of medical services, hospital charges and rehabilitation services from the county surcharge on State tax that would have provided relief for a broad range of Hawaii residents struggling to pay the high cost of living. My opposition, Mr. Speaker, is that it now is an exemption from the general excise tax for any private hospital. This type of legislation, I think, is, while it may be worthy when we look at the expenses that we have to pay for our public hospitals, may not be a prudent course to go. Thank you, Mr. Speaker."

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

"Mr. Speaker. I'd like to ask permission to be excused from this vote. My husband works for Hawaii Medical Center in Liliha and is an investor in that hospital," and the Chair ruled, "You are excused."

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

"I just want to speak in strong support of this measure. I've been a long supporter of the fact that we should not tax people when they're sick or dying. And while this measure doesn't help every single hospital on this island and the people that they serve in our community, it does help those people that are the most underserved in our community. And so I think this is a good beginning for what we could do in the future for all hospitals and healthcare in general by not taxing them."

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

"I speak in favor of this measure, Mr. Speaker. I would hope that private hospitals would be exempt from the general excise tax, but I feel that this measure is defined for one hospital in the Ewa area and if we pass this, I'm sure other hospitals, private hospitals would be in line for an exemption as well; Sraub Hospital and whatever other private hospitals we have in the State, including possible new ones on the island of Maui. So, I would hope that we might extend this to all hospitals just to lower their cost of healthcare to their patients. Thank you."

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

"Mr. Speaker, in strong support. Given the health crisis that we have, the hospital crisis, the reimbursement crisis, we need to give our hospitals a break. Just on the news last night, for example, I saw that Wahiawa Hospital no longer will deliver babies after next month. It's like because of the difficulty the hospitals are experiencing, there's a real crisis going on and this is one way of getting one hospital out of it, at least in the short term, for otherwise as maybe later on with the HHSC bill that we're going to have an amendment for, it might be for the long term. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 11, SD 3, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EXCISE TAX ON HEALTH CARE," passed Third Reading by a vote of 44 ayes to 2 noes, with Representatives Belatti and Rhoads voting no, and with

Representatives Bertram, Ching, Green, Souki and Tokioka being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1938) recommending that S.B. No. 679, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 679, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. I'm rising in opposition to Stand. Com. Rep. No. 1938. Basically, this bill proposes to establish a new office under the Department of Accounting and General Services, DAGS, Office of the Director of Disaster Preparedness. The proposed bill creates a new Office of Disaster Preparedness that only addresses natural hazards and develops policies, plans and best responses when these hazards result in disasters. This narrow concept of preparedness omits terrorism for many State and county responsibilities for homeland security and ignores preparedness planning responsibilities for man-made hazards, including avian flu and pandemic influenza.

"According to the bill, the new Director of Preparedness is expected to develop a comprehensive disaster preparedness and response plan for the State, but is not responsible for the implementation of the plan. We must assume, therefore, that the responsibility for disaster response will continue to remain with the State Department of Defense.

"Prior to Hurricane Katrina, the U.S. Department of Homeland Security removed preparedness programs from FEMA and placed these under a new Office of Preparedness. In 2006, these programs were returned to FEMA because the federal government learned that the responsibilities for preparedness and response should not be bifurcated. For the proposed bill, the new Office of the Director of Preparedness duplicates the responsibility and authorities of certain federal, State and county agencies, i.e., the flood insurance rate maps, lava flow hazard zones, dam safety, port security, land use policies, etc.

"The proposed bill also establishes a Disaster Preparedness Commission consisting of eight members who are appointed by various officials: the Governor, the Speaker of the House, the President of the Senate, the four Mayors, etc. This is supposed to be comprised of various subject matter experts who are who are to advise and assist the Director of Preparedness. The Commission is charged to work with the various government agencies to develop plans and capabilities.

"According to the bill, Commission members may perform their tasks either as volunteers or by hiring employees to do their work. In other words, the Commission could take on the structure of another government agency but in all likelihood be under-resourced, but more importantly, lack the authority and credibility to perform its duties across the spectrum of government while duplicating those functions being performed by other State and county government agencies.

"We actually should not be advancing this bill forward. The proposed bill is very narrow in scope and departs from national preparedness goals and State plans that focus on all hazard approaches to preparedness. The proposed bill creates a new office in government that is charged with a host of responsibilities without the resources and authorities to meet these expectations in the near term. And if passed, the proposed bill would cause a major shift in agency responsibilities and jeopardize federal funds that State and county government agencies receive for preparedness, homeland security programs, hazard mitigation projects and disaster response

and recovery programs. And, Mr. Speaker, this is the reason why I am voting no. Thank you.”

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

“Mr. Speaker, in support. Mr. Speaker, there is little doubt in our mind that Civil Defense does a good job responding to a natural disaster and we see that in any number of occasions. But where there's great failure on the State level is preparing for disasters and we see that over and over again. Many of the disasters that we've faced are because we built subdivisions below lava flows, or we build too close to a stream or too close to a cliff, or we put homes too close to the ocean. When hurricanes come in, you have tidal surges. And what we're trying to do is to address that situation by being prepared, by making sure that going forward, we're not going to continue to repeat the mistakes that we've been repeating since Captain Cook, basically, came to Hawaii.

“The Native Hawaiians knew how to handle Mother Nature. The rest of us think we can conquer it, and so we ignore, many times dangers. And, as a result, we put both human life and property with great expense. So just look at the little flood in Manoa that happened almost four years ago. We spent almost a hundred million dollars fixing up the University of Hawaii. Let's not have a repeat of that. If this bill is allowed to survive and becomes law, I think we'll begin to address some of these problems that we continue to repeat, and, therefore, it's good planning, it's good for public safety, it's good for fiscal management, and I encourage everyone to support it. Thank you.”

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

“Thank you. Mr. Speaker, I'm rising in support of the measure. Mr. Speaker, I have the privilege of serving on the Consumer Protection and Commerce Committee and the Chair of the Committee was rightfully concerned about the needs for Hawaii to be prepared, not to react to disasters, but to be prepared in advance. He scheduled Neighbor Island field trips. I attended the Big Island one and I sat through numerous hearings listening to some testimonies saying, 'Well, we can handle it the way we've done in the past.' I don't agree with those that say we can handle it the way we did in the past.

“I think that the Chair of CPC shows great vision and I'm very supportive of the work that he's done. I believe that this bill will set us on the road to being prepared in advance, not just reacting. The teams that react do an admirable job, but we need the team that is out there in front preparing, so that the need to react will be lessened. The sole focus of the bill is to develop and implement a comprehensive disaster preparedness plan for the State of Hawaii, and, frankly, I would think that everyone in this Chamber would agree that that is a very sound and good thing to do. Thank you.”

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

“Thank you, Mr. Speaker. In support with some concerns and reservations. I wholeheartedly agree with the Representative from Kailua that we must plan, we must. And after recent events we know that we want to. However, I'd also like to incorporate the words of our Minority Leader and note that in the Committee Report, the Department of Defense, the Department of Public Safety, the Department of Accounting and General Services, Department of Transportation, Department of Defense, Department of Emergency Management of the City and County, Mayor of Hawaii County, Kauai Civil Defense, Hawaii Lumber Products Association, concerned individuals, all are listed here as people who oppose. So, I'd just would like to see this really, perhaps, be improved soon in the next step. Thank you.”

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

“Thank you, Mr. Speaker. In support. First, Mr. Speaker, I ask that the comments and words of the Majority Leader be entered into the Journal as my own. Secondly, very briefly, Mr. Speaker, I think there's somewhat of a misconception in this measure because the fact of the matter is on October 15, 2006, this State was not prepared to handle the earthquake. We see a lot of moving parts out there and to all the credit that we give to the first responders. They absolutely did a good job, but there was a breakdown in communication. Many of our constituents across the State did not know what was happening.

“As I tried to explain to the Director of Civil Defense, we are not in any way trying to duplicate efforts. We are simply trying to put together an umbrella organization that will collect all the information that all the respective agencies have collected to date so that we don't have a breakdown in communication for the future. It's not just about our constituents. We have many disabled who did not know what was going on that day. It is clear that this State is not prepared, and that is what this measure is about. Therefore, I respectfully ask that my colleagues vote in support of this measure. Thank you, Mr. Speaker.”

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

“Thank you, Mr. Speaker. First, could I have the words of the speaker, the Representative from Kailua entered into the Journal as if they were my own? Secondly, just some brief comments. You know, the speaker from Kapolei really hit on a good point. We were not prepared. I mean, we had Civil Defense come out to Lahaina to give a briefing to the community. And guess what they told the community? You're on your own. We have no preparations. We won't be there to help you. You're on your own to develop your own plans. You're on your own.

“This State has really let people down. We have all these efforts going on across all these agencies, and yet we have nothing to bring them in the focus and implement them. Civil Defense does a great job, but let's remember the history of Civil Defense. What was it for? To respond to nuclear attack. That was the main reason Civil Defense came about. It's a response agency. They do a good job responding, but we need to focus our efforts in preparedness. And because we have all these scientific advisory committees and all these county groups and efforts, there's nothing to make sure that they're being brought in, they're being implemented and their being actually put into place.

“So, I think we have an opportunity. And, again, this isn't a war on Civil Defense. This isn't a turf battle. We're not trying to take anything away from the organization. All we're trying to do is to make sure that all these efforts that have been basically fragmented and never followed through on are concrete and followed through, so that the next time that my community and everybody else's community knows we are prepared. Thank you very much.”

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

“Thank you, Mr. Speaker. I rise in opposition to this measure. You know, I do hear the concerns raised by the proponents of this proposal on H.D. 2. However, Mr. Speaker, I believe the way to solve this problem, if the problem does exist as they say, is to work with the powers that be right now, and improve on the process. If you take a look at the Standing Committee Report, you will notice that a significant number of departments and offices and officials in the umbrella of Civil Defense did not support this particular measure. And I'm concerned about that. The Department of Defense, the Department of Public Safety, the Department of Accounting and General Services, the Department of Transportation, the Department of Emergency Management of the City and County of Honolulu, the

Mayor of the County of Hawaii, Hawaii Civil Defense Agency, and a few others.

"I think, Mr. Speaker, if we are going to be prepared for the next disaster, either man-made or natural, it's incumbent upon us to work with these people and put together a plan. I say we work with our State Civil Defense, push them if we need to, urge them, require them, but don't dismantle them. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In support. I think I need to make sure the Members understand the genesis of this proposal. It didn't come out of thin air. The former Chair of PSM and I met with a group of 20 people a year and a half ago. That included five University of Hawaii professors with expertise in geology and all of those issues that we're talking about. Mr. Teixeira was at the meeting. We had representatives from the real estate industry in the State of Hawaii, representatives from the insurance industry in the State of Hawaii, and the financial community. And the basis of the bill came from that group of people, and we've been working on it ever since.

"Now, when we got into Conference last year on this bill, those people were in support and advised me that if we could not get the Senate to understand that we have a problem, to walk away. And that's what we did.

"So, let's talk about disaster preparedness as opposed to responding. Now, let's first talk about the national level. I have been to many meetings of the National Coalition of Insurance Legislators, people like us that deal with insurance and disaster issues. It's a bipartisan organization. They are very critical of what they call the 'Air Force One' solution to national disasters where the President flies out to New Orleans, opens the door up, and pushes out a billion dollars and says everything's okay. That was one thing.

"We were told that Homeland Security, that Civil Defense is responsible, Homeland Security and they are responsible for disaster preparedness. Well, that's not what Congressman Abercrombie's office says. He said it's the State's responsibility to be prepared. Not Homeland Security. And he said, quite frankly, we can't get a straight answer out of Homeland Security.

"So, let's talk about the difference between responding and being prepared. Let's just use the high rise buildings in Waikiki, for example. We should have learned from Iniki. Glass was flying all over New Orleans because of that storm. If we had a major hurricane come through Hawaii and hit Waikiki, we'd have glass flying all over the place. To be prepared is to give the appropriate tax credits to harden all of those structures so we don't have that problem. And that's the sort of thing that we want this Disaster Preparedness Commission to deal with.

"As far as the City and County of Honolulu objecting to the bill. I had two EMS people come in to see me to say, 'We were completely unprepared. On October 15 we had no idea what we were supposed to do.' And I said, 'You're the first responders.' They said, 'Yeah. We had no idea what our job was on October 15.' Not only that, they said they don't even have enough money to operate. The ambulances have over 200,000 miles on. Okay, so we're taking care of these problems. We got a bill to get new ambulances. We got a bill on dam safety. We got another bill on trying to take care of hospitals. We're all over the place. DLNR wants to deal with the dams. The Department of Agriculture wants to deal with the dams, but they're not all talking to each other. No one is in charge and no one has brought it together.

"So, let's talk about the basic difference between preparedness and reaction. And all I hear from Civil Defense, the Department of Defense, all these agencies, is we are prepared to respond. As a matter of fact, at the Finance hearing, the Director of Civil Defense says they cannot prepare for disaster. That's the definition of a

disaster. What? This is coming from the Director of Civil Defense? Let me just give you the Kaloko Dam instance. It's a classic difference between being prepared and being prepared to respond. Being prepared to respond is going out and picking up the bodies of those people that drowned because of the Kaloko Dam disaster. Being prepared would have examined the structure integrity of that dam to make sure that it was secure. And then the land use policy that did not put people at risk below that dam so there weren't any dead bodies to pick up. That's if we had been prepared.

"The UH professors were very strong in saying that we need to develop natural disaster zones so we know what natural disaster may impact us, and we have every single one in this State. I have them all in my district. And then we adapt billing codes that deal with those disasters, to harden those structures that might be impacted by those disasters. And then land use planning that doesn't put people at risk. Hamakua Coast ..."

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

Representative Herkes continued, stating:

"In my history here, nobody's ever had to do that. Hamakua Coast. We had somebody walk away from a home worth \$600,000 to \$700,000. We shouldn't be putting people at risk. One of the professors said to me, 'You know, your district's moving'. I said, 'Where am I going?' She says, 'You're moving south'. And I said, 'How fast?' She said, 'The speed that your fingernails grow.' That's not very slow. We have a great risk in Ka'u, but we have people who want to develop Ka'u. We have people who want to build a resort development down in Pahoi Bay, where there's lava zones 1 and 2, where there's earthquakes, where there's possible tsunamis. You know, we have to stop thinking about reacting and we have to start thinking about being prepared, and that's what this bill does and that's what I think our job is. If we're not concerned about the safety of our people, then we have no business being here."

Representative Finnegan rose to respond, stating:

"Thank you, Mr. Speaker. I stand in opposition, but I would like to clarify some points. You know, I'm not against the whole Office of Preparedness, but I am taking a look at what has happened thus far, and on the national level how we can maybe learn from that situation. As I mentioned earlier, prior to Hurricane Katrina, which is probably one of the biggest disasters that we've had in a very long time, the U.S. Department of Homeland Security removed preparedness programs from FEMA and then placed these under a new Office of Preparedness.

"And then, in 2006, just last year, these programs were returned to FEMA because the federal government learned that the responsibilities for preparedness and response should not be bifurcated. So, all we're basically saying here is if you want to accomplish the Office of Preparedness, why are you going to put it under DAGS? You can still, with the authority of the Civil Defense or State Department of Defense still be able to do something like that. But when we basically say we're not going to learn from these experiences, we try to keep it together so you can try to coordinate, but also plan for these disasters. That's all I'm saying is that if you take something like this, on the federal level they decided to go, hey, that's the wrong turn to make. Instead of taking it out, we're going to put it back in because as much as they're different, they're related. 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. 679, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCIES," passed Third Reading by a vote of 37 ayes to 10 noes, with Representatives Awana, Berg, Finnegan, Hanohano, Meyer, Morita, Pine, Takai, Takamine and Takumi voting no, and with Representatives Bertram, Green, Souki and Tokioka being excused.

At 3:17 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1920, SD 2, HD 2
 S.B. No. 1823, SD 1, HD 2
 S.B. No. 603, SD 2, HD 2
 S.B. No. 1612, SD 2, HD 2
 S.B. No. 11, SD 3, HD 2
 S.B. No. 679, SD 2, HD 2

At 3:17 o'clock p.m., Representative Caldwell requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 3:40 o'clock p.m., with the Speaker presiding.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1939) recommending that S.B. No. 1718, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1718, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

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

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

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

"I want to speak with reservations because I don't understand all the reservations, except we are the ones that want to become independent from importing oil. We are the ones who want to be more self-sufficient. We want to be prepared for disasters. We want to be able to handle them. And this one is a bit of an astounding one because it's HECO, who my colleague praises as a very responsible company that has a joint venture put together with special purpose revenue bonds, which by the way costs us nothing, to try to see if we can use some of the empty land to put biofuels together.

"Sixty percent of all of our pineapple and sugar lands are empty. They're growing weeds. And this looks like something that should be given an opportunity. I know in all the committees that I've followed this year, it's been getting a lot of flack. I'm a bit confused by it. And, Mr. Speaker, I would also add a footnote for oil palm because I know oil palm has been kind of a poison pill here. So I put a footnote in oil palm in that oil palm has saved hundreds of thousands, if not millions of people's lives. And why I say that, because I know it, because I lived it, because I was in North Borneo as a Peace Corps volunteer working within the context of the government to plant oil palms so the people, the ex-head hunters that I lived with didn't starve. That oil palm has been planted all over Malaysia and Indonesia to the point of where some fear the rain forests are going to be gone, of which those who are the Europeans and the Americans are crying the loudest, have cut their forest down. And I know I'm getting a little off the bill, but my point is if oil palm is the reason, we have from BlueEarth themselves, they said they will not use oil palm.

"So, if they are going to have a chance to boost Maui farmers with growing grains, which can either be pressed or burned, I don't see why taking, and at a no-cost proposition to us, why we don't allow them to risk their own capital and their own ability to do stuff that's innovative and creative and entrepreneurial which we have spoken earlier about is going to be the future of Hawaii. Because if it's business as usual, we're not going to go anywhere or do anything. So, Mr. Speaker, with the reservations is a bit of confusion as to why we don't give this company a chance. Thank you."

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

"Thank you, Mr. Speaker. I rise to speak against the bill and to correct something that my colleague from Hawaii Kai said. I do not feel that HECO is a responsible, wonderful corporation at this point. What I did say was I was very pleased to see Michael May come out saying that HECO needs to be more environmentally sensitive and to change their policies. We have yet to see whether those are empty words or whether they will really live up to that. If they were really going to be responsible, they would withdraw their application to build another power plant on Oahu. They haven't done that.

"I'm against the underlying bill, Mr. Speaker. There are way too many questions about this bill that have not been answered. I don't feel we should move ahead with this SPRB for them, and I'm also concerned about actually, bio-diesel and it's impact upon agricultural lands in Hawaii. I don't know if that is really the best way for us to go. Until that is proven to me, I will oppose this measure. Thank you."

Representative Chang rose, stating:

"Mr. Speaker, I'd like to withdraw my vote with reservations. I am in strong support now."

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

"Thank you, Mr. Speaker. I rise in support of this measure. Much of the opposition to this measure is focused on the type of fuel crop, imported palm oil, in particular, which opponents believe this company may use to produce bio-diesel. I believe both the proponents and opponents of this measure understand the need for environmental sustainable practices in the cultivation of fuel crops, that the energy input in the cultivation of these types of crops and its production into a biofuel and its distribution require a cost benefit analysis and the promotion of a fuel crop should not jeopardize the growing of food crops, which I understand to be equally as important in addressing food security issues.

"However, this type of discussion may be more productive and reiterates a necessity of the development of policy within a bio-energy master plan for the State of Hawaii within the context of larger agricultural, energy, and environmental issues. Such a plan is one of the initiatives outlined in H.B. 1003, H.D. 3, which is moving through the Senate. There appears to be a lack of understanding in the process of how special purpose revenue bonds are issued and the amount of due diligence that must be performed prior to the issuance of special purpose revenue bonds, and that such bonds are not the general obligation of the State. There's no doubt that much of the opposition to this particular project was generated through environmental groups. Like many of you, I value the opinions of these organizations, however, in this case the opponent seems determined to end all discussion on biofuels that do not support their particular agenda or viewpoint or the perfect biofuel model.

"As we try to develop biofuels as an alternative, I understand the vision of developing an environmentally sustainable biofuel industry. But I am also pragmatic enough to know all the challenges we face to move in that direction. There's a larger planning issue at stake and I hope it's addressed in the biofuel master plan as that moves forward.

We have to have the right policies to drive our State-funded resources and decisions. However, other interested parties and private investment are not going to wait until the State gets its act together. The interest in biofuel, and bio-diesel, in particular, is market driven. Hawaiian Electric Company has made a commitment to transition all of its diesel burning generators to bio-diesel in the hopes of spurring local agricultural interest in the cultivating of fuel crops.

"HECO has publicly announced its preference for local crops, but with that not possible right now, is working with the Natural Resource Defense Council on strategies and how to identify and buy green tagged fuel crops. The State cannot mandate the purchase of green tagged crops because of the federal commerce clause, but HECO can. The fuel demands for HECO probably will not be met by a small company that's in business right now. Pacific Bio-Diesel with waste oil alone as a feed stock. The HECO contract has to be guaranteed by its supplier so as not to jeopardize its electricity customers.

"The real question is: Should HECO continue to rely on diesel from its current suppliers like Chevron and Tesoro or try to seek other alternatives? The bulk of Hawaii's oil now comes from the Middle East. We have a real opportunity to shift that, and shift diesel coming from the Middle East to the possibility of producing our own bio-diesel crop and bio-diesel fuel within Hawaii. This bill is the start of preliminary discussions about moving in this direction, so I think we should support this bill. Thank you."

Representative McKelvey rose in support of the measure and asked that the remarks of Representative Morita 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 S.B. No. 1718, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR ELECTRICAL GENERATION ON THE ISLAND OF MAUI," passed Third Reading by a vote of 40 ayes to 7 noes, with Representatives Awana, Berg, Finnegan, Hanohano, Meyer, Pine and Thielen voting no, and with Representatives Bertram, Green, Souki and Tokioka being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1940) recommending that S.B. No. 1060, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1060, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION LAW," passed Third Reading by a vote of 26 ayes to 21 noes, with Representatives Belatti, Berg, Ching, Finnegan, Hanohano, Har, Herkes, Marumoto, McKelvey, Meyer, Morita, Nishimoto, Pine, Shimabukuro, Takai, Takamine, Takumi, Thielen, Wakai, Ward and Yamane voting no, and with Representatives Bertram, Green, Souki and Tokioka being excused.

At 3:53 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1718, HD 2
S.B. No. 1060, SD 1, HD 2

The Chair then announced:

"Members of the House, if you look on page 20, on the Committee on Consumer Protection and Commerce, Standing Committee Report No. 1941, S.B. 1004, S.D. 2, H.D. 2 deferred one legislative day.

"Also, Members of the House, on section 6b of the Order of the Day, Third Reading, the Committee on Judiciary, S.B. 1665, H.D. 1 deferred one legislative day for Thursday. So we will be taking these up on Thursday."

Stand. Com. Rep. No. 1941, and S.B. No. 1004, SD 2, HD 2:

By unanimous consent, Stand. Com. Rep. No. 1941, and S.B. No. 1004, SD 2, HD 2, were deferred one legislative day.

THIRD READING

S.B. No. 1665, HD 1:

By unanimous consent, S.B. No. 1665, HD 1, was deferred one legislative day.

S.B. No. 1092:

Representative Caldwell moved that S.B. No. 1092, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. I do have some reservations on this bill and I'd like to explain why. Earlier on in the calendar, earlier on in the day, we had another repair and maintenance bill that we were going to be appropriating more money for fixing our schools. And I think for the most part we can all agree that we'd like to put money in to fix our schools. I guess, my reservations on this is it's my understanding that this process has improved tremendously. But the lapsing of money is a built-in mechanism for accountability to ensure that projects get done in a timely manner.

"I'm not going to vote no because you think about the kids and wanting to make sure that the repairs are made, but I would like the ability to just say that there is some lack of accountability if we just tend to want to give extensions to the lapse of money.

"The other part that I'd like to just speak about is in regards to the process of priority on what gets done. There's been tremendous improvement now that the Administration and the DOE have come up with a Memorandum of Understanding where the Governor basically will release funds according to the priority or in lump sum, but I think what needs to be improved upon is just how the DOE comes up with these priority lists. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and S.B. No. 1092, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 47 ayes, with Representatives Bertram, Green, Souki and Tokioka being excused.

S.B. No. 620, SD 1, HD 1:

Representative Caldwell moved that S.B. No. 620, SD 1, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

"A potential conflict of interest. I'm a graduate of Hawaii Preparatory Academy," and the Chair ruled, "no conflict."

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

"Mr. Speaker, a potential conflict also. I am a graduate, a very old graduate and my wife's on the Board," and the Chair ruled, "no conflict."

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

"Mr. Speaker, a potential conflict. My son was a very young graduate of HPA," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and S.B. No. 620, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR HAWAII PREPARATORY ACADEMY," passed Third Reading by a vote of 47 ayes, with Representatives Bertram, Green, Souki and Tokioka being excused.

S.B. No. 1402, SD 1, HD 1:

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, S.B. No. 1402, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE LOSS MITIGATION GRANT FUND," passed Third Reading by a vote of 46 ayes to 1 no, with Representative Berg voting no, and with Representatives Bertram, Green, Souki and Tokioka being excused.

S.B. No. 1133, SD 3, HD 1:

Representative Caldwell moved that S.B. No. 1133, SD 3, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

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

"I'm sorry. I'm going to be voting no on Stand. Com. Rep. No. 1811, and I just wanted short comments. Basically, the Department of Transportation had mentioned how they really need this because of the depletion of the Highway Fund. From my understanding, there's a history of the promise to not make this \$1 increase permanent. So, I'd just like to say that one, we should follow through with our promises

"But in regards to the many years that we did raid the Highway Fund, and we also did not have the federal funds to match that. The total raiding was about \$145 million, and we did lose all that federal funds. So I don't think that we should go back on our promise after doing something like that."

Representative Belatti 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 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 am in support with reservations on SB 1133, SD3, HD1. This bill would keep the rental motor surcharge tax at three dollars a day by eliminating a provision in the existing statute that would have reduced the surcharge to two dollars per day after 8-31-2007. This particular tax would be mostly levied upon non-residents, and it would go toward badly needed highway maintenance. Since non-resident motorists in rental vehicles do inflict wear and tear upon our highways, it is reasonable that they should pay their fair share toward maintaining those roads."

The motion was put to vote by the Chair and carried, and S.B. No. 1133, SD 3, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 39 ayes to 8

noes, with Representatives Berg, Brower, Finnegan, Herkes, Pine, Thielen, Wakai and Ward voting no, and with Representatives Bertram, Green, Souki and Tokioka being excused.

At 3:59 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1092
S.B. No. 620, SD 1, HD 1
S.B. No. 1402, SD 1, HD 1
S.B. No. 1133, SD 3, HD 1

At 3:59 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 4:00 o'clock p.m.

At this time, the Chair announced:

"Members, earlier this morning I stated for the record that at this time we have eight floor amendments that had been proposed by both sides. I would recommend that we break from 4:00 until 5:30. That will give each Caucus at least ten minutes on each of these floor amendments for discussion purposes. So, we will reconvene at this time at 5:30."

At 4:01 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 6:10 o'clock p.m.

The Chair then announced:

"Members at this time may we go back, we are now at the end of the calendar and we have eight supposedly measures before us that was discussed earlier this morning."

**END OF CALENDAR
UNFINISHED BUSINESS**

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 1820) recommending that S.B. No. 1803, SD 1, HD 1, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1803, SD 1, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

[Note: Floor Amendment No. 4 was received and subsequently withdrawn before being offered.]

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

"Thank you, Mr. Speaker. I rise with reservations. Basically, this bill is designed to benefit one company. That in and of itself, is not the best policy, but however, there is language that we can change to still be able to get to the underlying reason for the bill. We can address in Conference Committee basically some language that the Insurance Commissioner can be allowed to exempt group health insurers from our anti-bundling laws if the Commissioner determines that the group health insurer does not have the capacity to adequately deliver services to its enrollees unless it bundles products.

"This basically tracks the HIPA language. We have to be mindful that there is one company that has already sold bundled products in violation of our anti-bundling laws, and the underlying bill, this bill, would absolve them from any of their wrongdoings. Mr. Speaker, we want to be able to address the issue because I believe that this a

product or a group of products that small business owners or sole proprietors would like to have, but I think that there's a better way to set policy. Thank you, Mr. Speaker."

At 6:13 o'clock p.m., Representative Herkes requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 6:13 o'clock p.m.

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

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1803, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH INSURANCE," passed Third Reading by a vote of 45 ayes, with Representatives Bertram, Cabanilla, Green, Souki, Thielen and Tokioka being excused.

At 6:14 o'clock p.m., the Chair noted that the S.B. No. 1803, SD 1, HD 1, passed Third Reading.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1861) recommending that S.B. No. 12, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 12, SD 2, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

[Note: Floor Amendment No. 5 was received and subsequently withdrawn before being offered.]

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

"Thank you, Mr. Speaker. I would like a ruling on a potential conflict. I own a health insurance brokerage company," and the Chair ruled, "no conflict."

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

"Mr. Speaker, on this particular bill, Stand. Com. Rep. No. 1861, S.B. 12, I just want to make short comments with reservations. Thank you, Mr. Speaker. Just basically, when we do and if we decide that this is the road that we would like to go down, that we should be treating all insurance companies the same, regulating across the board, and not giving any advantages to any one particular company, no matter how big or small. Thank you."

Representative Pine rose in support of the measure with reservations, and asked that the remarks of Representative Finnegan 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 S.B. No. 12, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH INSURANCE RATE REGULATION," passed Third Reading by a vote of 41 ayes to 4 noes, with Representatives Berg, Hanohano, Morita and Takumi

voting no, and with Representatives Bertram, Cabanilla, Green, Souki, Thielen and Tokioka being excused.

At 6:17 o'clock p.m., the Chair noted that the S.B. No. 12, SD 2, HD 2, passed Third Reading.

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 1867) recommending that S.B. No. 1676, SD 2, as amended in HD 1, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted and that S.B. No. 1676, SD 2, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

At this time, Representative Pine offered Floor Amendment No. 10, amending S.B. No. 1676, SD 2, HD 1, as follows:

SECTION 1. Senate Bill No. 1676, Senate Draft 2, House Draft 1, is amended by deleting its contents and replacing it with the following language, to read as follows:

"SECTION 1. The legislature finds that the cost of medical malpractice and hospital professional and general liability coverage continues to rise and that stability in risk financing is needed for the Hawaii health systems corporation and the physicians serving this entity. The escalating costs of premiums, lack of insurers providing coverage in Hawaii, decreased limits of available coverage, and coverage restrictions, make it important to establish a captive insurance company to insure and control exposure to the liability risks of the aforementioned entity.

The purpose of this Act is to authorize and provide initial funding for the establishment of a domestic captive insurance company by the Hawaii health systems corporation to provide medical malpractice and hospital professional and general liability coverage for the corporation and its facilities and the physicians serving therein.

SECTION 2. Chapter 323F, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§323F- Captive insurance company; authorized. (a) The corporation may establish a captive insurance company in accordance with article 19, chapter 431, to provide medical malpractice and hospital professional and general liability coverage for Hawaii health systems facilities and their physicians.

(b) In organizing a captive insurance company:

(1) The corporation shall submit a formalized financial plan to the director of finance for review and approval; and

(2) Upon receiving the approval required by paragraph (1), and in addition to the documents required by article 19, chapter 431, the corporation shall submit to the insurance commissioner a formalized business plan that includes the establishment of a captive insurer board of directors."

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ _____, or so much thereof as may be necessary for fiscal year 2007-2008, and the same sum, or so much thereof as may be necessary for fiscal year 2008-2009, to be deposited into the Hawaii health systems corporation special fund.

The sums appropriated shall be expended by the Hawaii health systems corporation for the purposes of this Act.

SECTION 4. There is appropriated out of the health systems special fund the sum of \$ _____, or so much thereof as may be necessary for fiscal year 2007-2008, and the same sum, or so much thereof as may be necessary for fiscal year 2008-2009, for the Hawaii

health systems corporation to establish the captive insurance company authorized by this Act.

The sums appropriated shall be expended by the Hawaii health systems corporation for the purposes of this Act.

SECTION 5. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2007."

Representative Pine moved that Floor Amendment No. 10 be adopted, seconded by Representative Ching.

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

"Thank you, Mr. Speaker. I rise in support of the amendment. Basically, what the amendment does is reflects the Senate version that crossed over in March. The Health Committee passed out S.B. 1676, S.D. 2, unamended, on March 20 with no negative treatment. And this very House passed the bill on Second Reading three days later with no negative treatment.

"In the Committee, Mr. Speaker, and in the next Committee, CPC, there was also no negative treatment in terms of anyone in opposition. In fact, all the testimony was in favor. And if you look at the amendments of the bill in the most recent Committee, it's dramatically very different from what passed out of the Health Committee.

"And, so, something seems to have gone terribly wrong in terms of this bill's beginning in this House to now. And I'm very curious as to what that is. But my opposition or disagreement with the amendments really, kind of go back to what happened in the beginning of Session. Senator Daniel Inouye passed out some documents and called it the 'perfect storm' talking about a serious trouble that we are having in our health system of doctors leaving, of insurance rates being very high, problems with medical malpractice. We did make attempts in earlier Committees to try and reform, at least have tort reform, but that failed. And so many people are looking at this bill of allowing basically our Health System Corporation to create its own insurance company, to have lower rates, to pass those lower rates down to the public, to pass those lower rates down to the doctors. And so a lot of people had a lot of hope with their original bill when it got out of the Health Committee and also passed unanimously in the Senate.

"What the amendments did was, one, instead of allowing our Health System to immediately start its own captive insurance rates company, it basically changed it back to a study. So no action will be taken for a year or two years. And so we will continue to have that lack of hope in the medical system where lower rates will be provided to the hospitals, to the doctors, and eventually, to the patients. Turning it into a study when we have a 'perfect storm' coming upon us, it really loses hope for a lot of us.

"I think probably, for me at least, what was so upsetting, Mr. Speaker, I talked about the 109 bills that this Legislature has introduced since the Governor has been in office, to take away her powers, to give it to ourselves. This makes 110. In the Committee Report it says that we have amended this bill to change the composition of the HHSC Board of Directors, basically, instead of the Governor appointing the Board of Directors. We now will take that power away from her and give it to ourselves.

"You know, when I ran for office, there were some people that really inspired me. My grandmother used to go door to door with Governor Burns and her neighbor, William Richardson. So I grew up with all of them telling me stories of the old days and doing something that was meaningful. And I want us to do something meaningful here, something that I can go back to my constituency and they'll be proud of what I'm doing. And all that you hear on the

radio waves and in the newspapers is about this very body trying to take away powers of this particular Governor. No Governor before this particular Governor, to give us, ourselves, more power. And we've justified those actions in many, many very different bills saying it's for the Constitution. For the sake of the Constitution ..."

The Chair addressed Representative Pine, stating:

"Representative Pine, could you confine your remarks to the bill, relating to captive insurance of HHSC."

Representative Pine responded, stating:

"Actually, it's now in the bill and that's why I'm kind of ... Oh, I'm sorry, Mr. Speaker. I'm not supposed to doubt you.

"Okay. Well, going back to the bill, where it does take away power away from the Governor, from appointing the Board of Directors of the HHSC and giving us the power. It once again, it takes away the great things we've done so far on this bill, and that we've done so far in the other legislation that we've passed. It leaves the feeling in the minds of the people that we hadn't really done anything meaningful. And we've really been successful at taking away the powers of the Governor."

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

Thank you, Mr. Speaker. In opposition to the amendment. If you want to talk about the 'perfect storm', it's the management HHSC. We agree that the HHSC needs a captive. We want to develop a fire wall between the money and the management of HHSC. The intent of the draft of the bill that's before us is to form a separate corporation with expertise in insurance and financial capability to develop a captive for HHSC, and the board would manage it.

"Now, if there is a drafting problem in the bill where, and the previous speaker was correct. It did change the board of HHSC and that is not the intent in this bill. And I'll just assure the previous speaker that when we go into Conference on this, that the intent is to try to get a captive on this as quickly as possible, but there will be a board managing the HHSC captive with a fire wall between the money and the management of HHSC."

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

"Thank you, Mr. Speaker. In support of the amendment. The bottom line to this is that Kahuku Hospital's premiums jumped from \$68,000 last year to \$400,000 for medical liability insurance. HHSC's premiums went up from \$1.5 million to \$4.6 million this past year. What is that? That's approximately, almost \$3,350,000 approximately. Now, HHSC is going to need start up money to do this captive, between \$8 million and \$11 million, depending on which number you're comfortable with. That's like at least one-third of the amount that we're going to basically let go in this one year because we put in language that basically says we're going to push out being able to do a captive insurance for HHSC.

"I don't know about you, but \$3.5 million is a lot of money. We drove out medical liability insurance providers for hospitals in Hawaii. We no longer have them. The reason for this increase is because we have to go to surplus lines. This underlying bill kills the opportunity to be able to have captive insurance in a succinct way. But also, this amendment says that we must have approval and have a financial plan. So, I think we do have the ability to say, 'Yes, let's save a lot of money. Yes, we're going to address this problem. And yes, we are going to get lower insurance premiums for our hospitals in which they are in dire need of the money.' Thank you."

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

"Thank you, Mr. Speaker. I also rise in support of the amendment. I would like to see our hospital system develop a captive as soon as possible mainly because there's no guarantee that there will be insurance available. The surplus line is always very iffy and you never know what the cost is. They have the State of Hawaii over the barrel on this.

"Also, I question the need for a separate board, mainly because I do have great confidence in our Department of Commerce and Consumer Protection Insurance Division. They have a Captive Insurance Branch and they have been growing gangbusters. I believe that they can guide the hospital system in setting up a captive and so I don't share the apprehension of the Consumer Protection Chairman. The Captive Insurance Division has made Hawaii number two in the whole country, and we're number five as far as assets in the world. As of 2005, there were 163 active companies signed up through Hawaii and they had \$6.5 million in assets. The total premiums are \$1.5 billion and out of that \$6.5 billion in assets, \$1.6 billion are funneled through Hawaii banks. So, if we have the hospital system also joining in on this, that makes our economy even stronger.

"Over the past five years, 25 other states have seen the wisdom of forming captives and so, it's now become quite competitive, so I think we've got to stay ahead. I will credit the head of the captive insurance branch with this success, and his name is Craig Watanabe. For his efforts, he has received the 2006 American Institute of CPA's Outstanding CPA Government Award in Washington, D.C. So, I believe that we should proceed posthaste in setting up a captive for HHSC and I think with the help of Mr. Watanabe it will be safe and secure. Thank you very much."

The motion that Floor Amendment No. 10, amending S.B. No. 1676, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION," be adopted, was put to vote by the Chair and failed to carry with Representatives Bertram, Cabanilla, Green, Nishimoto, Souki, Thielen and Tokioka being excused.

(Main Motion)

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

"Thank you, Mr. Speaker. I'm rising in opposition to the underlying measure. In the Committee Report it says the purpose of this bill is to ensure the ability of the Hawaii Health Systems Corporation to obtain adequate and affordable insurance coverage by setting forth requirements for HHSC to establish a captive insurance company to provide medial malpractice and hospital professional and general liability coverage. That's what our amendment would do.

"This bill as others have said on our side of the Chamber, forestalls it. It puts it off for at least two years. Our amendment is very clean. Actually HHSC already has the ability. I mean they can do it, but ours would just go straight to it, have them put down the documents required for Article 19, the corporation shall submit to the Insurance Commissioner a formalized business plan that includes the establishment of a captive insurance board of directors. I mean, we're not waiting two years. They could be doing most this summer and get it to the DCCA. The other thing our bill does it had an appropriation in it ..."

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

"Mr. Speaker, point of order. Will the speaker speak to the current bill and not the amendment which is already not before us."

The Chair then stated:

"Representative Meyer could you confine your remarks to the ..."

Representative Meyer responded:

"They are very similar except that one really does something and the other just puts it off. There is on appropriation in this other bill. The major part of this bill ..."

Representative B. Oshiro: "Mr. Speaker, she's not speaking to the bill. She's speaking to something that's no longer before this body."

Representative Meyer: "I'm looking at S.B. 1676."

Speaker Say: "Representative Finnegan. For what purpose do you rise?"

Representative Finnegan: "Point of information."

Speaker Say: "State your point, even though I'm not supposed to be interrupting the speaker who has the floor right now. State your point of information."

Representative Finnegan: "The information that I would like is ..."

Speaker Say: "Or your point of order. State your point of order right now."

Representative Finnegan: "Thank you. I'm going to state it right now. I basically would like to know if whether or not you can be discussing the bill and its former drafts?"

Speaker Say: "Former drafts. Yes, you could be discussing the former draft, but ..."

Representative Finnegan: "Well then, this is very germane because the former draft is also equivalent to what the amendment was. Thank you."

Speaker Say: "What we have before us is the House Draft to which is now in this form. But she can make reference to that point."

Representative Meyer: "Thank you very much. That's exactly what I'm trying to do until I was so rudely interrupted."

Speaker Say: "Representative Meyer, you were not rudely interrupted."

Representative Meyer: "Well, it's a matter of perception, Mr. Speaker."

"But the other problem I have with this bill, number one, it does not move us towards captive insurance for the HHSC. We already know they're drowning in this, the cost of malpractice and we are simply doing nothing for it.

"The other thing this bill does, there is no appropriation so they couldn't do it even if they can do it. It makes the requirement to send a report in before the 2008 Legislature which is just sort of a stalling tactic.

"And then the body of the bill, the bill takes up most of the time creating the corporate board and having the Legislature pick the people that the Governor will choose from. So as my very good friend and colleague from Ewa Beach stated in hers, while I'm certainly for captive insurance, I would hope that we would be moving towards that for this very important organization. This bill doesn't do it, and so, I'll be voting no."

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

"Thank you, Mr. Speaker. In support. The only reason there is no money in it is that we ran out of time and didn't have time to do a Finance referral or else the bill would have died. And so we kept it alive by excluding the money."

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

"I rise in opposition. Mr. Speaker, I have two problems with the bill. Number one is that it doesn't trust the Governor. It's going to re-engineer as was previously spoken about. And secondly, it doesn't trust HHSC. It's basically putting a foot in the aisle, to trip it up, to slow it down, to bog it down, from otherwise from what we know when we do a captive self insurance that is, we save a lot of money.

"Probably, and I'm going to refer to another amendment on the floor, probably when we hear the amendment coming down the line in the next 20 to 30 minutes, we are going to talk about are we going to save HHSC from bankruptcy. We have to save them from bleeding. We have to stabilize the hospital system. Well, that's what this bill will do by allowing the captive to proceed posthaste with all of this. Let's study this. Let's figure it out. Let's figure out how to build a firewall, number one, and then we'll get a study to do it. As we all know that a camel is a horse designed by a committee. It just doesn't work out that way. So, when we plead later on about how we're going to help HHSC, this is where it could begin. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I'd just like to correct a comment that was made just a little while ago in regards to there was no appropriation section. I believe that that was the comment. Am I correct?"

"This bill did start off, as it crossed over, with an appropriation section. It got passed out of the Health Committee with an appropriation section. As to whether or not, why it didn't go to Finance, I don't know why that didn't happen, but I just wanted to let you know that in our amendment, that is equivalent to what was passed out of the Health Committee. There was an appropriation section in there. Thank you. I am still in opposition."

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

Representative Ching's written remarks are as follows:

"I am in opposition to S.B. 1676, S.D. 2— Relating to Hawaii Health Systems Corporation

"The cost of hospital professional general liability and medical malpractice insurance premiums continue to rise. There is a lack of insurers willing to provide coverage in Hawaii, and the policies offered have decreased limits of available coverage, and restrictions on what liability exposures are covered. It is important as well as economically feasibly for HHSC to establish a captive insurance company to provide predictability.

"Predictability and stability will improve patient access to care. For example, Kahuku Hospital was nearly shut down due to financial difficulties, in part caused by the high cost of medical liability insurance. High malpractice premiums take funding away from patient care.

"The general insurance market for hospital malpractice coverage is very expensive compared to the coverage limits available, if any at all. As a result, many insurers have stopped providing this coverage in Hawaii as well as other states. A captive insurance company is a good alternative and indeed, is almost the only alternative available at this time."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1676, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION," passed Third Reading by a

vote of 40 ayes to 5 noes, with Representatives Ching, Finnegan, Meyer, Pine and Ward voting no, and with Representatives Bertram, Cabanilla, Green, Souki, Thielen and Tokioka being excused.

At 6:36 o'clock p.m., the Chair noted that the S.B. No. 1676, SD 2, HD 1, passed Third Reading.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1929) recommending that S.B. No. 1412, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1412, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

At this time, Representative Finnegan offered Floor Amendment No. 6, amending S.B. No. 1412, SD 2, HD 2, as follows:

SECTION 1. Senate Bill No. 1412, Senate Draft 2, House Draft 2, is amended by deleting its contents and inserting the following language, to read as follows:

"SECTION 1. Insurance fraud is reported to cost every household in the United States an average of \$500 per year. In Hawaii, the cost of motor vehicle insurance fraud alone has been estimated to be over \$164 annually per household. In recognition of the impact that fraud has on the cost of motor vehicle insurance, Act 251, Session Laws of Hawaii 1997, was enacted to establish an insurance fraud investigations unit, and motor vehicle insurance fraud violations, and penalties. Act 155, Session Laws of Hawaii 1998, was enacted the following year to clarify the penalties for the offense of motor vehicle insurance fraud and enhanced and clarified the powers and purpose of the insurance fraud investigations unit to combat motor vehicle insurance fraud.

Insurance fraud also has increasingly affected costs within the health insurance industry. Industry healthcare fraud losses are estimated at three to fourteen per cent of the \$1,200,000,000,000 in annual national healthcare costs. This is equivalent to approximately \$36,000,000,000 to \$168,000,000,000 annually. In Hawaii, based on the conservative estimate that insurance fraud amounts to three per cent of annual Hawaii healthcare costs, health insurance fraud causes losses that exceed \$60,000,000 annually. Realizing that insurance fraud is a growing problem in the area of health insurance, health insurance fraud provisions were enacted in Act 125, Session Laws of Hawaii 2003. However, none of the healthcare insurance fraud provisions designate a specific law enforcement agency to be responsible for the investigation and prosecution of insurance fraud violations.

No line of insurance is exempt from insurance fraud. Rather than limit administrative, civil, and criminal penalties for insurance fraud to only a few selected lines of insurance, Hawaii's insurance fraud law should be expanded to include all lines of insurance to deter perpetrators of insurance fraud by demonstrating that no line of insurance will be a safe haven for those who commit insurance fraud.

The purpose of this Act is to:

- (1) Establish the insurance fraud investigations branch to replace the existing insurance fraud investigations unit, and empower it to investigate and prosecute insurance fraud in all lines of insurance, except workers' compensation insurance;
- (2) Establish administrative, civil, and criminal penalties for offenses of insurance fraud in all lines of insurance, except workers' compensation insurance, and for different types of insurance fraud, including fraudulent applications and sales; and
- (3) Establish that fines and settlements resulting from successful insurance fraud prosecutions are to be deposited into the

compliance resolution fund to help the insurance fraud investigations branch to cover some of the cost of its own operation to prevent, investigate, and prosecute insurance fraud.

SECTION 2. Chapter 431, Hawaii Revised Statutes, is amended by adding to article 2 a new part to be appropriately designated and to read as follows:

"PART . INSURANCE FRAUD

§431:2-A Definitions. As used in this part:

"Branch" means the insurance fraud investigations branch of the insurance division.

"Insurance policy" for the purpose of this part, means a contract issued by an insurer or other licensee.

"Licensee" means an entity licensed under and governed by title 24, including but not limited to an insurer governed by chapter 431, a mutual benefit society governed by article 1 of chapter 432, a fraternal benefit society governed by article 2 of chapter 432, and a health maintenance organization governed by chapter 432D, and their respective agents and employees engaged in the business of the licensee, except for the business of providing workers' compensation insurance.

"Person" means any individual, company, association, organization, group, partnership, business, trust, or corporation; but shall exclude insurer, as defined in section 431:1-202, and other licensees, as defined in this part.

§431:2-B Insurance fraud investigations branch. (a) There is established in the insurance division the insurance fraud investigations branch.

(b) The branch shall:

- (1) Conduct a statewide program for the prevention of insurance fraud relating to but not limited to title 24, except workers' compensation insurance;
- (2) Notwithstanding any other law to the contrary investigate, and prosecute in administrative hearings and courts of competent jurisdiction all persons involved in insurance fraud violations arising out of but not limited to chapters 431, 432, and 432D; and
- (3) Promote public and industry-wide education about insurance fraud.

(c) The branch may review and take appropriate action on complaints relating to insurance fraud.

(d) The commissioner shall employ or retain, by contract or otherwise, attorneys, investigators, investigator assistants, auditors, accountants, physicians, health care professionals, paralegals, consultants, experts, and other professional, technical, and support staff as necessary to promote the effective and efficient conduct of the branch's activities. The commissioner may hire such employees without regard to chapter 76.

(e) Notwithstanding any other law to the contrary, an attorney employed or retained by the branch may represent the State in any criminal, civil, or administrative proceeding to enforce all applicable state laws relating to insurance fraud, including but not limited to criminal prosecutions, disciplinary actions, and actions for declaratory and injunctive relief. Each attorney representing the State in such a proceeding shall be designated by the attorney general as a special deputy attorney general. The decision to designate an attorney as a special deputy attorney general shall be solely within the discretion of the attorney general.

(f) Investigators, investigator assistants, and auditors appointed and commissioned under this part shall have and may exercise all of the powers and authority of a police officer or of a deputy sheriff.

(g) Funding for the insurance fraud investigations branch shall come from the compliance resolution fund established pursuant to section 26-9(o).

§431:2-C Insurance fraud. (a) A person commits the offense of insurance fraud if the person intentionally or knowingly misrepresents or conceals material facts, opinions, intention, or law to obtain or attempt to obtain coverage, benefits, recovery, or compensation for services by:

- (1) Presenting, or causing or permitting to be presented, an application, whether written, typed, or transmitted through electronic media, for the issuance or renewal of an insurance policy or reinsurance contract;
- (2) Presenting, or causing or permitting to be presented, false information on a claim for payment whether typed, written, or transmitted through electronic media;
- (3) Presenting, or causing or permitting to be presented, a claim for the payment of a loss;
- (4) Presenting, or causing or permitting to be presented, improper multiple duplicative claims for the same loss or injury, including knowingly presenting the multiple and duplicative claims to more than one insurer;
- (5) Presenting, or causing or permitting to be presented, any claim for payment of a health care benefit;
- (6) Presenting, or causing or permitting to be presented, a claim for a health care benefit that was not used by, or provided on behalf of, the claimant;
- (7) Presenting, or causing or permitting to be presented, improper multiple and duplicative claims for payment of the same health care benefit;
- (8) Presenting, or causing or permitting to be presented, for payment, any undercharges for benefits on behalf of a specific claimant unless any known overcharges for benefits under this article for that claimant are presented for reconciliation at the same time;
- (9) Fabricating, altering, concealing, making an entry in, or destroying a document whether typed, written, or through an audio or video tape or electronic media;
- (10) Presenting, or causing or permitting to be presented, to a person, insurer, or other licensee false, incomplete, or misleading information to obtain coverage or payment otherwise available under an insurance policy;
- (11) Presenting, or causing or permitting to be presented, to a person or producer, information about a person's status as a licensed producer that induces a person or insurer to purchase an insurance policy or reinsurance contract;
- (12) Making, or causing or permitting to be made, any statement, either typed, written, or through audio or video tape or electronic media, or claims by the person or on behalf of a person with regard to obtaining legal recovery or benefits; and
- (13) Intentionally or knowingly aiding, agreeing, or attempting to aid, solicit, or conspire with any person who engages in an unlawful act as defined under this section; or

(14) Intentionally or knowingly making, causing, or permitting to be presented, any false statements or claims by any person or on behalf of any person during an official proceeding as defined by section 710-1000.

(b) Where the person acting with intent to defraud under subsection (a) possessed actual knowledge or acted in deliberate ignorance of the truth or falsity of the misrepresentation or concealment of the material facts, opinions, intention, or law, insurance fraud is a:

- (1) Class B felony if the value of the benefits, recovery, or compensation obtained or attempted to be obtained is more than \$20,000;
- (2) Class C felony if the value of the benefits, recovery, or compensation obtained or attempted to be obtained is more than \$300; or
- (3) Misdemeanor if the value of the benefits, recovery, or compensation obtained or attempted to be obtained is \$300 or less.

(c) This section shall not supersede any other law relating to theft, fraud, or deception. Insurance fraud may be prosecuted under this part, or any other applicable statute or common law, and all such remedies shall be cumulative.

(d) For the purpose of this section, "intentionally" and "knowingly" have the meanings as in section 702-206.

§431:2-D Restitution. Where the ability to make restitution can be demonstrated, any person convicted under this part shall be ordered by a court to make restitution to any insurer, person, or other licensee for any financial loss sustained by that insurer, person, or licensee caused by the act or acts for which the person was convicted.

§431:2-E Insurance fraud; administrative penalties. (a) In addition to or in lieu of criminal penalties under section 431:2-C(b), any person who commits insurance fraud as defined under section 431:2-C, may be subject to the administrative penalties of subsection (b).

(b) If a person is found to have knowingly committed insurance fraud under title 24, the commissioner may assess a penalty including any or all of the following:

- (1) Restitution to any insurer or any other person of benefits or payments fraudulently received or other damages or costs incurred;
- (2) A fine of not more than \$10,000 for each violation; and
- (3) Reimbursement of attorneys' fees and costs of the party sustaining a loss under this part, except that the State shall be exempt from paying attorney fees and costs to other parties.

(c) Administrative actions brought for insurance fraud under this part shall be brought within six years after the insurance fraud is discovered or by exercise of reasonable diligence should have been discovered and, in any event, no more than ten years after the date on which a violation of this part is committed.

(d) For the purpose of subsection (b), "knowingly" means that a person, has actual knowledge of the facts; and

- (1) Acts in deliberate ignorance of the truth or falsity of the facts; or
- (2) Acts in reckless disregard of the truth or falsity of the facts.

No proof of specific intent to defraud is required to prove that a person acted "knowingly" with respect to the facts.

§431:2-F Administrative procedures. (a) An administrative penalty may be imposed based upon a judgment by a court of competent jurisdiction or upon an order by the commissioner.

(b) Prior to imposition of any administrative remedy the commissioner shall hold a hearing in accordance with chapter 91.

§431:2-G Acceptance of payment. A provider's failure to dispute a reduced payment by an insurer shall not constitute an implied admission that a fraudulent billing had been submitted.

§431:2-H Civil cause of action for insurance fraud; exemption.

(a) An insurer or other licensee shall have a civil cause of action to recover payments or benefits from any person who has violated any practice prohibited by section 431:2-C of this part. No recovery shall be allowed if the person has made restitution under section 431:2-D or 431:2-E(b)(1).

(b) A person, insurer, or other licensee including an insurer or other licensee's adjusters, bill reviewers, producers, representatives, or common-law agents, if acting without actual malice, shall not be subject to civil liability for providing information, including filing a report, furnishing oral, written, audio taped, video taped, or electronic media evidence, providing documents, or giving testimony concerning suspected, anticipated, or completed insurance fraud to:

- (1) A court;
- (2) The commissioner;
- (3) The insurance fraud investigations branch;
- (4) The National Association of Insurance Commissioners;
- (5) The National Insurance Crime Bureau;
- (6) Any federal, state, or county law enforcement or regulatory agency; or
- (7) Another insurer or other licensee, if the information is provided for the purpose of preventing, investigating, or prosecuting insurance fraud;

unless the person commits perjury.

(c) Civil actions brought for insurance fraud under this part shall be brought within six years after the insurance fraud is discovered or by exercise of reasonable diligence should have been discovered and, in any event, no more than ten years after the date on which a violation of this part is committed.

§431:2-I Mandatory reporting. (a) Within sixty days of an insurer or other licensee's employee or agent discovering credible information indicating that a violation of section 431:2-C is occurring or has occurred or as soon thereafter as practicable, the insurer or licensee shall provide to the insurance fraud investigations branch information, including documents and other evidence, regarding the alleged violation of section 431:2-C.

(b) Information provided pursuant to this section shall be protected from public disclosure to the extent authorized by chapter 92F and section 431:2-209; provided that the branch may release the information in an administrative or judicial proceeding to enforce this part, to federal, state, or local law enforcement or regulatory authorities, the National Association of Insurance Commissioners, the National Insurance Crime Bureau, or an insurer or other licensee aggrieved by the alleged violation of section 431:2-C.

§431:2-J Deposit into the compliance resolution fund. All moneys that have been recovered by the department of commerce

and consumer affairs as a result of prosecuting insurance fraud violations pursuant to this part, including civil fines, criminal fines, administrative fines, and settlements, but not including restitution made pursuant to sections 431:2-D, 431:2-E(b)(1) or 431:2-H, shall be deposited into the compliance resolution fund established pursuant to section 26-9(o)."

SECTION 3. Section 431:2-203, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b)(1) A person who intentionally or knowingly violates, intentionally or knowingly permits any person over whom the person has authority to violate, or intentionally or knowingly aids any person in violating any insurance rule or statute of this State or any effective order issued by the commissioner, shall be subject to any penalty or fine as [stated in] provided by this code or the penal code of the Hawaii Revised Statutes.

(2) If the commissioner has cause to believe that any person has violated any penal provision of this code or of other laws relating to insurance, the commissioner may proceed against that person or shall certify the facts of the violation to the public prosecutor of the jurisdiction in which the offense was committed.

(3) Violation of any provision of this code is punishable by a fine of not less than \$100 nor more than \$10,000 per violation, or by imprisonment for not more than one year, or both, in addition to any other penalty or forfeiture provided herein or otherwise by law.

(4) The terms "intentionally" and "knowingly" have the meanings given in section 702-206(1) and (2)."

SECTION 4. Section 431:2-204, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) When the commissioner, through the insurance fraud investigations [unit], branch, is conducting an investigation of possible violations of [section 431:10C-307.7,] part _____, the commissioner shall pay to a financial institution that is served a subpoena issued under this section a fee for reimbursement of [such] the costs as are necessary and which have been directly incurred in searching for, reproducing, or transporting books, papers, documents, or other objects designated by the subpoena. Reimbursement shall be paid at a rate not to exceed the rate set forth in section 28-2.5(d)."

SECTION 5. Section 432:2-102, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Nothing in this article shall exempt fraternal benefit societies from the provisions and requirements of part _____ of article 2 of chapter 431 and section 431:2-215."

SECTION 6. Section 431:10A-131, Hawaii Revised Statutes, is repealed.

"~~["§431:10A-131] Insurance fraud; penalties. (a) A person commits the offense of insurance fraud if the person acts or omits to act with intent to obtain benefits or recovery or compensation for services provided, or provides legal assistance or counsel with intent to obtain benefits or recovery, through the following means:~~

- ~~(1) Knowingly presenting, or causing or permitting to be presented, with the intent to defraud, any false information on a claim;~~
- ~~(2) Knowingly presenting, or causing or permitting to be presented, any false claim for the payment of a loss;~~
- ~~(3) Knowingly presenting, or causing or permitting to be presented, multiple claims for the same loss or injury;~~

~~including presenting multiple claims to more than one insurer, except when these multiple claims are appropriate;~~

~~(4) Knowingly making, or causing or permitting to be made, any false claim for payment of a health care benefit;~~

~~(5) Knowingly submitting, or causing or permitting to be submitted, a claim for a health care benefit that was not used by, or provided on behalf of, the claimant;~~

~~(6) Knowingly presenting, or causing or permitting to be presented, multiple claims for payment of the same health care benefit except when these multiple claims are appropriate;~~

~~(7) Knowingly presenting, or causing or permitting to be presented, for payment any undercharges for benefits on behalf of a specific claimant unless any known overcharges for benefits under this article for that claimant are presented for reconciliation at the same time;~~

~~(8) Aiding, or agreeing or attempting to aid, soliciting, or conspiring with any person who engages in an unlawful act as defined under this section; or~~

~~(9) Knowingly making, or causing or permitting to be made, any false statements or claims by, or on behalf of, any person or persons during an official proceeding as defined by section 710-1000.~~

~~(b) Violation of subsection (a) is a criminal offense and shall constitute a:~~

~~(1) Class B felony if the value of the benefits, recovery, or compensation obtained or attempted to be obtained is more than \$20,000;~~

~~(2) Class C felony if the value of the benefits, recovery, or compensation obtained or attempted to be obtained is more than \$300; or~~

~~(3) Misdemeanor if the value of the benefits, recovery, or compensation obtained or attempted to be obtained is \$300 or less.~~

~~(c) Where the ability to make restitution can be demonstrated, any person convicted under this section shall be ordered by a court to make restitution to an insurer or any other person for any financial loss sustained by the insurer or other person caused by the act or acts for which the person was convicted.~~

~~(d) A person, if acting without malice, shall not be subject to civil liability for providing information, including filing a report, furnishing oral or written evidence, providing documents, or giving testimony concerning suspected, anticipated, or completed public or private insurance fraud to a court, the commissioner, the insurance fraud investigations unit, the National Association of Insurance Commissioners, any federal, state, or county law enforcement or regulatory agency, or another insurer if the information is provided only for the purpose of preventing, investigating, or prosecuting insurance fraud, except if the person commits perjury.~~

~~(e) This section shall not supersede any other law relating to theft, fraud, or deception. Insurance fraud may be prosecuted under this section, or any other applicable section, and may be enjoined by a court of competent jurisdiction.~~

~~(f) An insurer shall have a civil cause of action to recover payments or benefits from any person who has intentionally obtained payments or benefits in violation of this section; provided that no recovery shall be allowed if the person has made restitution under subsection (c)."~~

SECTION 7. Section 431:10C-307.7, Hawaii Revised Statutes, is

repealed.

~~["§431:10C-307.7 Insurance fraud; penalties.—(a) A person commits the offense of insurance fraud if the person acts or omits to act with intent to obtain benefits or recovery or compensation for services provided, or provides legal assistance or counsel with intent to obtain benefits or recovery, through the following means:~~

- ~~(1) Knowingly presenting, or causing or permitting to be presented, any false information on a claim;~~
- ~~(2) Knowingly presenting, or causing or permitting to be presented, any false claim for the payment of a loss;~~
- ~~(3) Knowingly presenting, or causing or permitting to be presented, multiple claims for the same loss or injury, including presenting multiple claims to more than one insurer, except when these multiple claims are appropriate;~~
- ~~(4) Knowingly making, or causing or permitting to be made, any false claim for payment of a health care benefit;~~
- ~~(5) Knowingly submitting, or causing or permitting to be submitted, a claim for a health care benefit that was not used by, or provided on behalf of, the claimant;~~
- ~~(6) Knowingly presenting, or causing or permitting to be presented, multiple claims for payment of the same health care benefit except when these multiple claims are appropriate;~~
- ~~(7) Knowingly presenting, or causing or permitting to be presented, for payment any undercharges for benefits on behalf of a specific claimant unless any known overcharges for benefits under this article for that claimant are presented for reconciliation at the same time;~~
- ~~(8) Aiding, or agreeing or attempting to aid, soliciting, or conspiring with any person who engages in an unlawful act as defined under this section; or~~
- ~~(9) Knowingly making, or causing or permitting to be made, any false statements or claims by, or on behalf of, any person or persons during an official proceeding as defined by section 710-1000.~~

~~(b) Violation of subsection (a) is a criminal offense and shall constitute a:~~

- ~~(1) Class B felony if the value of the benefits, recovery, or compensation obtained or attempted to be obtained is more than \$20,000;~~
- ~~(2) Class C felony if the value of the benefits, recovery, or compensation obtained or attempted to be obtained is more than \$300; or~~
- ~~(3) Misdemeanor if the value of the benefits, recovery, or compensation obtained or attempted to be obtained is \$300 or less.~~

~~(c) Where the ability to make restitution can be demonstrated, any person convicted under this section shall be ordered by a court to make restitution to an insurer or any other person for any financial loss sustained by the insurer or other person caused by the act or acts for which the person was convicted.~~

~~(d) A person, if acting without malice, shall not be subject to civil liability for providing information, including filing a report, furnishing oral or written evidence, or giving testimony concerning suspected, anticipated, or completed insurance fraud to a court, the commissioner, the insurance fraud investigations unit, the National Association of Insurance Commissioners, any federal, state, or county law enforcement or regulatory agency, or another insurer if~~

~~the information is provided only for the purpose of preventing, investigating, or prosecuting insurance fraud, except if the person commits perjury.~~

~~(e) This section shall not supersede any other law relating to theft, fraud, or deception. Insurance fraud may be prosecuted under this section, or any other applicable section, and may be enjoined by a court of competent jurisdiction.~~

~~(f) An insurer shall have a civil cause of action to recover payments or benefits from any person who has intentionally obtained payments or benefits in violation of this section; provided that no recovery shall be allowed if the person has made restitution under subsection (e).~~

~~(g) All applications for insurance under this article and all claim forms provided and required by an insurer, regardless of the means of transmission, shall contain, or have attached to them, the following or a substantially similar statement, in a prominent location and typeface as determined by the insurer: "For your protection, Hawaii law requires you to be informed that presenting a fraudulent claim for payment of a loss or benefit is a crime punishable by fines or imprisonment, or both." The absence of such a warning in any application or claim form shall not constitute a defense to a charge of insurance fraud under this section.~~

~~(h) An insurer, or the insurer's employee or agent, having determined that there is reason to believe that a claim is being made in violation of this section, shall provide to the insurance fraud investigations unit within sixty days of that determination, information, including documents and other evidence, regarding the claim in the form and manner prescribed by the unit. Information provided pursuant to this subsection shall be protected from public disclosure to the extent authorized by chapter 92F and section 431:2-209; provided that the unit may release the information in an administrative or judicial proceeding to enforce this section, to a federal, state, or local law enforcement or regulatory authority, to the National Association of Insurance Commissioners, or to an insurer aggrieved by the claim reasonably believed to violate this section."~~

SECTION 8. Section 431:10C-307.8, Hawaii Revised Statutes, is repealed.

~~["§431:10C-307.8 Insurance fraud investigations unit.—(a) There is established in the insurance division an insurance fraud investigations unit.~~

~~(b) The unit shall employ attorneys, investigators, investigator assistants, and other support staff as necessary to promote the effective and efficient conduct of the unit's activities. Notwithstanding any other law to the contrary, the attorneys may represent the State in any judicial or administrative proceeding to enforce all applicable state laws relating to insurance fraud, including but not limited to criminal prosecutions and actions for declaratory and injunctive relief. Investigators may serve process and apply for and execute search warrants pursuant to chapter 803 and the rules of court but shall not otherwise have the powers of a police officer or deputy sheriff. The commissioner may hire such employees not subject to chapter 76.~~

~~(c) The purpose of the insurance fraud investigations unit shall be to conduct a statewide program for the prevention, investigation, and prosecution of insurance fraud cases and violations of all applicable state laws relating to insurance fraud. The insurance fraud investigations unit may also review and take appropriate action on complaints relating to insurance fraud."~~

SECTION 9. Section 432:1-106, Hawaii Revised Statutes, is repealed.

~~["§432:1-106 Insurance fraud; penalties.—(a) A person commits the offense of insurance fraud if the person acts or omits to act with intent to obtain benefits or recovery or compensation for~~

services provided, or provides legal assistance or counsel with intent to obtain benefits or recovery, through the following means:

- (1) Knowingly presenting, or causing or permitting to be presented, with the intent to defraud, any false information on a claim;
- (2) Knowingly presenting, or causing or permitting to be presented, any false claim for the payment of a loss;
- (3) Knowingly presenting, or causing or permitting to be presented, multiple claims for the same loss or injury, including presenting multiple claims to more than one insurer, except when these multiple claims are appropriate;
- (4) Knowingly making, or causing or permitting to be made, any false claim for payment of a health care benefit;
- (5) Knowingly submitting, or causing or permitting to be submitted, a claim for a health care benefit that was not used by, or provided on behalf of, the claimant;
- (6) Knowingly presenting, or causing or permitting to be presented, multiple claims for payment of the same health care benefit except when these multiple claims are appropriate;
- (7) Knowingly presenting, or causing or permitting to be presented, for payment any undercharges for benefits on behalf of a specific claimant unless any known overcharges for benefits under this article for that claimant are presented for reconciliation at the same time;
- (8) Aiding, or agreeing or attempting to aid, soliciting, or conspiring with any person who engages in an unlawful act as defined under this section; or
- (9) Knowingly making, or causing or permitting to be made, any false statements or claims by, or on behalf of, any person or persons during an official proceeding as defined by section 710-1000.

(b) Violation of subsection (a) is a criminal offense and shall constitute a:

- (1) Class B felony if the value of the benefits, recovery, or compensation obtained or attempted to be obtained is more than \$20,000;
- (2) Class C felony if the value of the benefits, recovery, or compensation obtained or attempted to be obtained is more than \$300; or
- (3) Misdemeanor if the value of the benefits, recovery, or compensation obtained or attempted to be obtained is \$300 or less.

(c) Where the ability to make restitution can be demonstrated, any person convicted under this section shall be ordered by a court to make restitution to an insurer or any other person for any financial loss sustained by the insurer or other person caused by the act or acts for which the person was convicted.

(d) A person, if acting without malice, shall not be subject to civil liability for providing information, including filing a report, furnishing oral or written evidence, providing documents, or giving testimony concerning suspected, anticipated, or completed public or private insurance fraud to a court, the commissioner, the insurance fraud investigations unit, the National Association of Insurance Commissioners, any federal, state, or county law enforcement or regulatory agency, or another insurer if the information is provided only for the purpose of preventing, investigating, or prosecuting insurance fraud, except if the person commits perjury.

(e) This section shall not supersede any other law relating to theft, fraud, or deception. Insurance fraud may be prosecuted under this section, or any other applicable section, and may be enjoined by a court of competent jurisdiction.

(f) An insurer shall have a civil cause of action to recover payments or benefits from any person who has intentionally obtained payments or benefits in violation of this section; provided that no recovery shall be allowed if the person has made restitution under subsection (e)."]

SECTION 10. Section 432D-18.5, Hawaii Revised Statutes, is repealed.

"[§432D-18.5] **Insurance fraud; penalties.**—(a) A person commits the offense of insurance fraud if the person acts or omits to act with intent to obtain benefits or recovery or compensation for services provided, or provides legal assistance or counsel with intent to obtain benefits or recovery, through the following means:

- (1) Knowingly presenting, or causing or permitting to be presented, with the intent to defraud, any false information on a claim;
- (2) Knowingly presenting, or causing or permitting to be presented, any false claim for the payment of a loss;
- (3) Knowingly presenting, or causing or permitting to be presented, multiple claims for the same loss or injury, including presenting multiple claims to more than one insurer, except when these multiple claims are appropriate;
- (4) Knowingly making, or causing or permitting to be made, any false claim for payment of a health care benefit;
- (5) Knowingly submitting, or causing or permitting to be submitted, a claim for a health care benefit that was not used by, or provided on behalf of, the claimant;
- (6) Knowingly presenting, or causing or permitting to be presented, multiple claims for payment of the same health care benefit except when these multiple claims are appropriate;
- (7) Knowingly presenting, or causing or permitting to be presented, for payment any undercharges for benefits on behalf of a specific claimant unless any known overcharges for benefits under this article for that claimant are presented for reconciliation at the same time;
- (8) Aiding, or agreeing or attempting to aid, soliciting, or conspiring with any person who engages in an unlawful act as defined under this section; or
- (9) Knowingly making, or causing or permitting to be made, any false statements or claims by, or on behalf of, any person or persons during an official proceeding as defined by section 710-1000.

(b) Violation of subsection (a) is a criminal offense and shall constitute a:

- (1) Class B felony if the value of the benefits, recovery, or compensation obtained or attempted to be obtained is more than \$20,000;
- (2) Class C felony if the value of the benefits, recovery, or compensation obtained or attempted to be obtained is more than \$300; or
- (3) Misdemeanor if the value of the benefits, recovery, or compensation obtained or attempted to be obtained is \$300 or less.

~~(c) Where the ability to make restitution can be demonstrated, any person convicted under this section shall be ordered by a court to make restitution to an insurer or any other person for any financial loss sustained by the insurer or other person caused by the act or acts for which the person was convicted.~~

~~(d) A person, if acting without malice, shall not be subject to civil liability for providing information, including filing a report, furnishing oral or written evidence, providing documents, or giving testimony concerning suspected, anticipated, or completed public or private insurance fraud to a court, the commissioner, the insurance fraud investigations unit, the National Association of Insurance Commissioners, any federal, state, or county law enforcement or regulatory agency, or another insurer if the information is provided only for the purpose of preventing, investigating, or prosecuting insurance fraud, except if the person commits perjury.~~

~~(e) This section shall not supersede any other law relating to theft, fraud, or deception. Insurance fraud may be prosecuted under this section, or any other applicable section, and may be enjoined by a court of competent jurisdiction.~~

~~(f) An insurer shall have a civil cause of action to recover payments or benefits from any person who has intentionally obtained payments or benefits in violation of this section; provided that no recovery shall be allowed if the person has made restitution under subsection (c)."]~~

SECTION 11. All rights, powers, functions, and duties of the insurance fraud investigations unit are transferred to the insurance fraud investigations branch.

All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act.

No officer or employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act, and such officer or employee may be transferred or appointed to a civil service position without the necessity of examination; provided that the officer or employee possesses the minimum qualifications for the position to which transferred or appointed; and provided that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

An officer or employee of the State who does not have tenure and who may be transferred or appointed to a civil service position as a consequence of this Act shall become a civil service employee without the loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges and without the necessity of examination; provided that such officer or employee possesses the minimum qualifications for the position to which transferred or appointed.

If an office or position held by an officer or employee having tenure is abolished, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position for which the officer or employee is eligible under the personnel laws of the State as determined by the head of the department or the governor.

SECTION 12. All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the insurance fraud investigations unit relating to the functions transferred to the insurance fraud investigations branch shall be transferred with the functions to which they relate.

SECTION 13. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section

numbers for the letters used in designating the new sections in this Act.

SECTION 14. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 15. This Act shall take effect on July 1, 2007."

Representative Finnegan moved that Floor Amendment No. 6 be adopted, seconded by Representative Meyer.

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

"Thank you, Mr. Speaker. In regards to this amendment, Mr. Speaker, the amendment addresses something that happened with this bill. Originally, this bill was to create this insurance fraud investigations unit originally when it crossed over. And what had happened was it had all of the lines of insurance in there except for workers' comp. What happened in a later draft, after it got passed out of Judiciary as is, according to how the Senate passed it over to us, then it went through a variety of changes.

"One main change, actually, it went from the investigative unit going from all lines of insurance, except workers' comp, to the complete opposite, to workers' comp, and let's not address all of the other lines of insurance. The reason why the original bill, or the bill that crossed over, the reason why it did not have workers' comp in there addressing the fraud for workers' comp, because as we know over the years, what has happened was we could never, the different sides could never come to an agreement as to how we would address fraud in workers' comp.

"However, the Insurance Commissioner took a lot of time and tried to do a lot of collaborating for all of the different lines of insurance and when he did that, it came out to some really good language that everybody could agree on, except for workers' comp. So the reason why they don't have workers' comp in this particular bill is because if workers' comp was in the bill, the bill would probably, most likely, not survive.

"So, what did we do? We took a 180. We said no investigating fraud of any other lines of insurance because we want to have workers' comp, I guess, addressed first. Insurance fraud, is insurance fraud, is insurance fraud. Fraud should be investigated. The people that this affects for all the different lines have come together in agreement on this particular bill, Mr. Speaker, former drafts of this bill. We just ruined that bill and ruined the opportunity to address insurance fraud in all the other different lines. What does that mean? When we don't address the insurance fraud, it means higher cost for insurance for everybody.

"What I would like to do in this amendment is put it back to what it was before. The Senate draft that came over, that crossed over, passed the Senate, passed Judiciary with no amendments, and now we've got one that would probably die because it has workers' comp, or we'll be fighting to have workers' comp in there. It doesn't make sense to me that we're going to sacrifice higher cost of premiums for everybody on these other lines just so that we can kill the bill in workers' comp, because workers' comp can't get together on a collaborative effort to make sure that we have something that they can work with. Thank you."

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

"Mr. Speaker, thank you. I'm rising to speak in opposition to this amendment. First of all, I need to state that I think it's bad public policy to have the regulated industries write the laws, but will still be regulated.

"Secondly, Mr. Speaker, I'm speaking against the proposed amendment. May I take liberty and read from the testimony of the State Insurance Commissioner because in the bill before us that the Minority Leader is seeking to amend, which was H.B. 88, H.D. 2. These are the words from the Insurance Commissioner, and he states, 'Workers' compensation fraud is a concern nationally and locally. In 2003 Hawaii experienced a 24% increase in average workers' compensation premiums paid by Hawaii's employers. This bill would seek to ease the burden fraud puts on the workers compensation system through the prevention, investigation and prosecution of workers' compensation fraud committed by those attempting to abuse the system.'

"And in further support against this amendment, let me also quote verbatim from the testimony of the Director of Labor and Industrial Relations on H.B. 88, H.D. 2, which is in the underlying House draft. 'The Department supports expanding the Insurance Commissioner's jurisdiction to investigate and prosecute workers' compensation fraud. The Insurance Commissioner has been aggressive and successful in investigating and prosecuting automobile insurance fraud and the Department believes it is natural for the Insurance Commissioner to expand his office expertise to workers' compensation fraud.'

"Mr. Speaker, as evidenced by the testimony from the Administration officials, both by the State Insurance Commissioner and from the Department of Labor and Industrial Relations, there seems to be some disconnect between the Administration's departments, the Administration, and the Minority Leader with this floor amendment.

"Mr. Speaker, your Committee on Finance is in sync with the departments, and we chose to insert the provisions of H.B. 88 into this measure as the deletion of workers' compensation from the purview of the insurance investigations unit severely hampers the effectiveness of this unit.

"The Legislature, Mr. Speaker, in this Session has been criticized for taking powers away from the Administration. In this measure, your Committee on Finance has attempted to broaden the powers of the administrative division. Workers' compensation fraud has been a driving force behind the inadequacies and shortcomings of the whole system. This measure begins to address some of the faults of the workers' compensation system. With the support of the Department of Labor and Industrial Relations, Department of Commerce and Consumer Affairs Insurance Division, the Attorney General, and the Department of Human Resources Director, the Minority Leader may need to amend this proposed amendment to accurately reflect the wishes and preferences of these Departments and administrators. For these reasons, I stand in opposition to this floor amendment. Thank you, Mr. Speaker."

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

"Mr. Speaker, I'm rising in support of the amendment. I would just say that in looking at the bill that was heard in Judiciary and was passed out, there was nobody that testified in opposition. The DCCA, the Department of Attorney General, Hawaii Association of Health Plans, Hawaii Medical Services Association, ILWU, National Association of Insurance and Financial Advisors, State Farm Insurance, and the American Council. This bill would expand the investigation of insurance fraud to all forms of insurance, except for workers' comp and that's how they got all that agreement from these various groups.

"Workers' comp is a real hot button. It's hard to get the unions to agree with the Department of Labor or it just, what the Insurance Commissioner wants to do is to save more money so that our premiums will go down. I was astounded to see the figures that he came up with on health insurance, and that was one of the things that would be covered in this amendment, but estimated at a loss of \$60 million annually on health insurance fraud, where he's already

investigating auto insurance fraud. It is estimated that each family, it's worth about \$160 for each family, the money that they'd save because of the fraud that they are uncovering. So, if we want to reduce the premiums on all kinds of insurance, it makes sense to have the Office of DCCA do this.

"I can't understand. I question whether the Chairman of Finance had the agreement from the Chairman of Judiciary because he passed it on and it was very non-controversial and it would be a good thing for the people of Hawaii. There would be savings in insurance premiums, but by taking this out, you are essentially not expanding the kinds of fraud they can investigate. You're just pinpointing workers' comp which is so controversial.

"At first, in the Committee I thought that the Chairman of Finance had just put workers' comp in with the other things. The people that were in the Finance Committee testifying, they were not testifying on this workers' comp bill. They were testifying as it says in the Committee Report, the purpose of the bill to expand the authority to the Department of Commerce and Consumer Affairs, Insurance Fraud Investigation Unit, and that's what they were testifying on.

"So, this bill just came out of nowhere, and there certainly was nobody testifying on the workers' comp fraud and so, that's why we would like to see a bill that's clean, that had, you know, there were no no votes in Judiciary and the Judiciary Chair was in favor of it. So, that's why we have introduced this amendment. Thank you."

Representative Finnegan rose to respond, stating:

"Mr. Speaker, second time in support of the amendment. I think I'm still dizzy from the spin from before, from the Representative of Wahiawa in his comments in regards to talking about how DLIR and the Insurance Commissioner, and how we're not connected. There is no disconnect in this. Of course, if you asked DLIR or the Insurance Commissioner would they prefer that we investigate fraud in workers' comp, what are they going to say? They've been trying to pass that for I don't know how many years.

"We've come to the conclusion, I guess, by supporting the prior drafts of this bill, that we don't want to see it die. We'd rather to have something that allows us to investigate fraud than nothing at all. Mr. Speaker, again, let's not just play with, you know, what they support, workers' comp more than these other things.

"The bottom line is there is a perfectly good bill that would address bringing down our insurance premiums for all other lines. If you want workers' comp, we've done it before. It didn't pass. If you want workers' comp, you should have put a bill in. I'm just saying, Mr. Speaker, let's work on something to address fraud. Thank you."

The motion that Floor Amendment No. 6, amending S.B. No. 1412, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE FRAUD," be adopted, was put to vote by the Chair and failed to carry, with Representatives Bertram, Cabanilla, Green, McKelvey, Souki, Thielen and Tokioka being excused.

(Main Motion)

Representative Meyer rose, stating:

"Mr. Speaker, on the underlying bill, all Republicans vote aye with reservations."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1412, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE FRAUD," passed Third Reading by a vote of 44 ayes, with Representatives Bertram, Cabanilla, Green, McKelvey, Souki, Thielen and Tokioka being excused.

At 6:51 o'clock p.m., the Chair noted that the S.B. No. 1412, SD 2, HD 2, passed Third Reading.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1937) recommending that S.B. No. 1792, SD 3, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 1792, SD 3, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

At this time, Representative Morita offered Floor Amendment No. 11, amending S.B. No. 1792, SD 3, HD 2, as follows:

SECTION 1. Senate Bill No. 1792, S.D. 3, H. D. 2 (RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION), is amended by deleting its contents and replacing it with new language, to read as follows:

"SECTION 1. The legislature finds that the State's community hospital system, Hawaii health systems corporation, is the fourth largest public hospital system in the nation. The Hawaii health system corporation's public health facilities provide essential safety-net hospital and long-term care services throughout the state and are often the only hospitals in many rural communities. Due to rapid changes taking place in the health care industry, the legislature acknowledges that the governing structure of our public hospital system must provide the appropriate flexibility and autonomy needed to compete and remain viable and respond to the needs of the specific communities served by furthering the development of centers of excellence in health care.

The current administrative arrangement places the public hospital system in a single statewide public agency, the Hawaii health systems corporation, which operates with some autonomy from the executive branch. This arrangement is the result of landmark legislation, Act 262, Session Laws of Hawaii 1996 (Act 262), after years of study. Act 262 was largely the result of the work of a task force established pursuant to Act 266, Session Laws of Hawaii 1994, charged with studying the establishment of an agency for community hospitals, then a division of the department of health. On December 20, 1994, the task force issued its report to the governor and the legislature entitled "The Preliminary Report of the Governor's Task Force on the Establishment of an Agency for Community Hospitals." Many of the recommendations of the task force were adopted by the legislature, resulting in passage of Act 262, and the creation of the Hawaii health systems corporation in 1996.

One significant recommendation of the task force included the establishment of regional affiliate boards of directors, along with the system-wide board. The task force stated that:

"The Hawaii Health Systems Corporation should administer the state facilities in a decentralized fashion, with the facilities to be grouped into five regions. Three regions should be formed for the facilities of Kauai, Oahu and Maui Counties respectively, and the Big Island should be divided into Eastern and Western regions.

Each region should have an operating Board of Directors consisting of nine members. Regional Boards should be initially appointed by the Governor with the advice and consent of the Senate, and should subsequently be self-perpetuating (i.e., with future Board appointments made by the current Board)."

During the 1996 conference committee hearings on S.B. No. 2522, which ultimately became Act 262, the regional affiliate board concept was replaced with regional management advisory committees. The management advisory committees represent the communities in which the hospitals are located and meet with the management of the facilities and the executives of the Hawaii health systems corporation to give the communities a voice in the provision

of these vital safety-net hospital services. However, the legislature finds that the Hawaii health systems corporation has developed strong administrative and clinical leadership in all five regions and is now ready for the implementation of the regional affiliate boards recommendation. Further, the regional affiliate board concept would enhance the ability of local communities and stakeholders to participate in the decision-making and operation of their own community hospitals. While the management advisory committees have been diligent in representing the communities, their role has been solely advisory. Local community stakeholders, through independent regional affiliate boards, are in the best position to make the critical decisions relating to the local operation of their community hospitals. Additionally, regional affiliate boards would have the ability to address local needs and concerns in a more timely fashion.

The hospitals, through the Hawaii health systems corporation, should still engage in state-wide activities where a system-wide approach may provide economies of scale, efficiencies, and inter-regional collaboration and cooperation.

The purpose of this Act is to advance the State's commitment to provide quality health care for the people of Hawaii, by moving forward on the original task force recommendation of community-based governance and establishing regional affiliate boards for all regions, to be governed by a community-based regional affiliate board of directors, and to provide the necessary authority for each region to accomplish the goal of community-based governance. The Hawaii health system corporation will continue to provide system-wide functions and governance with enhanced representation of regional affiliate board members.

SECTION 2. Chapter 323F, Hawaii Revised Statutes, is amended by adding four new sections to be appropriately designated and to read as follows:

§323F-A Regional affiliate boards. (a) Each of the regions specified in section 323F-2 shall be governed by a regional affiliate board of directors, which shall carry out the duties and responsibilities set forth in this chapter and as further delegated by the corporation.

(b) Each regional affiliate board shall consist of eleven members to be appointed by the governor pursuant to section 26-34; provided eight are appointed as follows:

(1) Two members within thirty days of receipt of a qualified list of candidates as follows:

(A) One member from a list of at least four individuals who are not physicians submitted by the speaker of the house of representatives; and

(B) One member from a list of at least four individuals who are not physicians submitted by the president of the senate;

(2) One member nominated by the regional public health facility management advisory committee, chosen from the members of the corporation board who are not physicians;

(3) Two members from a list of four individuals who are not physicians submitted by the mayor of the county in which the regional affiliate board is located; and

(4) Three physicians from a list of up to six physicians nominated by a majority vote of each medical staff of the public health facilities in the region present at a duly noticed meeting from a list of qualified candidates submitted by the medical executive committees in the region.

(c) Terms for the initial regional affiliate board members shall be as follows:

- (1) Two years for members nominated by the house of representatives, senate, or medical executive committees in the region;
- (2) Two years for the member nominated by the regional public health facility management advisory committee for the region; and
- (3) Three years for the remaining members and all members appointed thereafter.

(d) New members appointed to the regional affiliate board after the original members shall be selected in the same manner as the original members, except the corporation board member, who shall be nominated by the regional affiliate board.

(e) Except for the appointment of a representative from the corporation, all other members of a regional affiliate board shall be residents of the region. Each regional affiliate board shall elect its own chair.

(f) Each regional affiliate board shall be responsible for local governance, operations, and administration of the delivery of services in its respective region as set forth in this chapter and as further delegated by the corporation. Each regional affiliate board shall include non physician medical and health care providers and professionals, consumers, and knowledgeable individuals in other appropriate areas, such as business and law. Each regional affiliate board shall be as balanced and representative of the community stakeholders as possible.

(g) Any member of a regional affiliate board may be removed for cause by the governor or for cause by vote of a two-thirds majority of the regional affiliate board's voting members then in office. For purposes of this section, "cause" shall include without limitation:

- (1) Malfeasance in office;
- (2) Persistent failure to attend regularly called meetings;
- (3) Sentencing for conviction of a felony, to the extent allowed by section 831-3.1; or
- (4) Any other cause that may render a member incapable of discharging or unfit to discharge the duties required under this chapter.

§323F-B Regional chief executive officer; exempt position. (a) Upon establishment, a regional affiliate board may appoint a regional chief executive officer in collaboration with and subject to the approval of the corporation board; provided that the position shall be exempt from chapter 76 and section 26-35(a)(4). The regional chief executive officer may also appoint as necessary other personnel, exempt from chapters 76 and 89, to work directly for the regional chief executive officer for the region and for the corresponding regional affiliate board.

(b) Any regional affiliate board or its designee may discharge its exempt personnel with or without cause; provided that removal without cause shall not prejudice any contract rights of personnel.

(c) The regional chief executive officer or the regional chief executive officer's designee may appoint, exempt from chapters 76 and 89, hospital administrators, assistant administrators, directors of nursing, medical directors, and staff physicians, to facilitate the management of facilities within the region.

(d) Hiring, firing, compensation packages, and other personnel actions of employees not covered by chapters 76 and 89 shall be governed by policies adopted by each regional affiliate board, subject to policies and guidelines established by the corporation in consultation with the regional affiliate boards.

§323F-C. Regional affiliate boards; delegated authority. If the Hawaii health systems corporation board is unable to act on important transactions in as timely a manner as reasonably required, the chairperson of the corporation board may further delegate authority to the regional affiliate board to take action on specific matters."

"§323F-D Regional affiliate boards; transfer of custodial care of assets. Upon its establishment, a regional affiliate board shall assume custodial care of all real property, including land, structures, and fixtures, and any other physical assets, such as personal property, including furnishings, equipment, and inventory, of the corporation within its region. No sale or encumbrance of any such real property or such other physical assets of the corporation shall be permitted without the mutual consent of the Hawaii health systems corporation board and the appropriate regional affiliate board.

SECTION 3. Section 26-5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) Nothing in this section shall be construed as in any manner affecting the civil service laws applicable to the several counties, the judiciary, or the Hawaii health systems corporation[;] or its regional affiliate boards, which shall remain the same as if this chapter had not been enacted."

SECTION 4. Section 26-35.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) For purposes of this section, "member" means any person who is appointed, in accordance with the law, to serve on a temporary or permanent state board, including members of the local school board of any charter school established under chapter 302B, council, authority, committee, or commission, established by law or elected to the board of education, or the board of trustees of the employees' retirement system under section 88-24[;], or the corporation board of the Hawaii health systems corporation under section 323F-3 and its regional affiliate boards under section 323F-A; provided that "member" shall not include any person elected to serve on a board or commission in accordance with chapter 11 other than a person elected to serve on the board of education."

2. By amending subsection (e) to read:

"(e) The attorney general, or in the case of the board of regents of the University of Hawaii its university general counsel, or in the case of the board of directors of the Hawaii health systems corporation under section 323F-3 or its regional affiliate boards under chapter 323F-B, the attorneys retained by the board of directors of the Hawaii health systems corporation or its regional affiliate boards under section 323F-9, shall represent and defend a member in any civil action for which immunity is conferred under subsection (b), or when the attorney general, or, if the action involves a member of the board of regents, the university general counsel, or, if the action involves a member of the board of directors of the Hawaii health systems corporation or its regional affiliate boards, the attorneys retained by the board of directors of the Hawaii health systems corporation or its regional affiliate boards, determines that indemnification is available to the member under subsection (c), and the member against whom the action is brought has submitted a written request for representation and has provided the attorney general, [ø] the university general counsel in the case of an action involving a member of the board of regents, or the attorneys retained by the board of directors of the Hawaii health systems corporation or its regional affiliate boards in the case of an action involving a member of the board of directors of the Hawaii health systems corporation or its regional affiliate boards with all process or complaint served upon the member within a reasonable period of time, but not more than five days after being served with the process or complaint. The attorney general, [ø] the university general counsel, or an attorney retained by the board of directors of the

Hawaii health systems corporation may terminate the representation and defense of the member at any time if, after representation and defense is accepted, the attorney general, [ø] the university general counsel, or an attorney retained by the board of directors of the Hawaii health systems corporation determines that indemnification would not be available to the member under subsection (c)."

SECTION 5. Section 28-8.3, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) No department of the State other than the attorney general may employ or retain any attorney, by contract or otherwise, for the purpose of representing the State or the department in any litigation, rendering legal counsel to the department, or drafting legal documents for the department; provided that the foregoing provision shall not apply to the employment or retention of attorneys:

- (1) By the public utilities commission, the labor and industrial relations appeals board, and the Hawaii labor relations board;
- (2) By any court or judicial or legislative office of the State;
- (3) By the legislative reference bureau;
- (4) By any compilation commission that may be constituted from time to time;
- (5) By the real estate commission for any action involving the real estate recovery fund;
- (6) By the contractors license board for any action involving the contractors recovery fund;
- (7) By the trustees for any action involving the travel agency recovery fund;
- (8) By the office of Hawaiian affairs;
- (9) By the department of commerce and consumer affairs for the enforcement of violations of chapters 480 and 485;
- (10) As grand jury counsel;
- (11) By the Hawaiian home lands trust individual claims review panel;
- (12) By the Hawaii health systems corporation, or its regional affiliate boards, or any of [its] their facilities;
- (13) By the auditor;
- (14) By the office of ombudsman;
- (15) By the insurance division;
- (16) By the University of Hawaii;
- (17) By the Kahoolawe island reserve commission;
- (18) By the division of consumer advocacy;
- (19) By the office of elections;
- (20) By the campaign spending commission;
- (21) By the Hawaii tourism authority, as provided in section 201B-2.5; or
- (22) By a department, in the event the attorney general, for reasons deemed by the attorney general good and sufficient, declines,

to employ or retain an attorney for a department; provided that the governor thereupon waives the provision of this section."

2. By amending subsection (c) to read:

"(c) Every attorney employed by any department on a full-time basis, except an attorney employed by the public utilities commission, the labor and industrial relations appeals board, the Hawaii labor relations board, the office of Hawaiian affairs, the Hawaii health systems corporation[;] or its regional affiliate boards, the department of commerce and consumer affairs in prosecution of consumer complaints, insurance division, the division of consumer advocacy, the University of Hawaii, the Hawaii tourism authority as provided in section 201B-2.5, the Hawaiian home lands trust individual claims review panel, or as grand jury counsel, shall be a deputy attorney general."

SECTION 6. Section 29-24, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is established in the state treasury an interagency federal revenue maximization revolving fund, into which shall be deposited all funds and proceeds collected from the federal government and third-party payors for costs not previously claimed by the State, with the exception of proceeds collected for services provided by the Hawaii health systems corporation[;] or its regional affiliate boards, for reimbursement of federally-funded state programs. For purposes of this chapter, federally-funded state programs include but shall not be limited to those federally-funded programs within the departments of human services and health, and shall not include the federally-funded program within the department of education as provided in [section] 302A-1406. Expenditures and transfers from the fund shall be made by the comptroller in proportional allocations established by the comptroller and the director of finance. Transfers shall be made to the department claiming the reimbursement for expenses incurred related to federal fund reimbursement claims and to the general fund of the State. Moneys in the fund may be expended for consultant services rendered under subsection (b)."

SECTION 7. Section 36-27, Hawaii Revised Statutes, is amended to read as follows:

"§36-27 Transfers from special funds for central service expenses. Except as provided in this section, and notwithstanding any other law to the contrary, from time to time, the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special out-of-school time instructional program fund under section 302A-1310;
- (2) School cafeteria special funds of the department of education;
- (3) Special funds of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center enterprise special fund under section 201B-8;
- (6) Special funds established by section 206E-6;
- (7) Housing loan program revenue bond special fund;
- (8) Housing project bond special fund;
- (9) Aloha Tower fund created by section 206J-17;
- (10) Funds of the employees' retirement system created by section 88-109;

- (11) Unemployment compensation fund established under section 383-121;
- (12) Hawaii hurricane relief fund established under chapter 431P;
- (13) Hawaii health systems corporation special funds[;] and the subaccounts of its regional affiliate boards;
- (14) Tourism special fund established under section 201B-11;
- (15) Universal service fund established under chapter 269;
- (16) Integrated tax information management systems special fund under section 231-3.2;
- (17) Emergency and budget reserve fund under section 328L-3;
- (18) Public schools special fees and charges fund under section 302A-1130(f);
- (19) Sport fish special fund under section 187A-9.5;
- (20) Neurotrauma special fund under section 321H-4;
- (21) Deposit beverage container deposit special fund under section 342G-104;
- (22) Glass advance disposal fee special fund established by section 342G-82;
- (23) Center for nursing special fund under section [[304A-2163]];
- (24) Passenger facility charge special fund established by section 261-5.5;
- (25) Solicitation of funds for charitable purposes special fund established by section 467B-15;
- (26) Land conservation fund established by section 173A-5;
- (27) Court interpreting services revolving fund under section 607-1.5;
- (28) Trauma system special fund under section 321-22.5;
- (29) Hawaii cancer research special fund;
- (30) Community health centers special fund; and
- (31) Emergency medical services special fund[;];

shall deduct five per cent of all receipts of all other special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year.[;]"

SECTION 8. Section 36-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- "(a) Each special fund, except the:
- (1) Transportation use special fund established by section 261D-1;
 - (2) Special out-of-school time instructional program fund under section 302A-1310;

- (3) School cafeteria special funds of the department of education;
- (4) Special funds of the University of Hawaii;
- (5) State educational facilities improvement special fund;
- (6) Special funds established by section 206E-6;
- (7) Aloha Tower fund created by section 206J-17;
- (8) Funds of the employees' retirement system created by section 88-109;
- (9) Unemployment compensation fund established under section 383-121;
- (10) Hawaii hurricane relief fund established under chapter 431P;
- (11) Convention center enterprise special fund established under section 201B-8;
- (12) Hawaii health systems corporation special funds[;] and the subaccounts of its regional affiliate boards;
- (13) Tourism special fund established under section 201B-11;
- (14) Universal service fund established under chapter 269;
- (15) Integrated tax information management systems special fund under section 231-3.2;
- (16) Emergency and budget reserve fund under section 328L-3;
- (17) Public schools special fees and charges fund under section 302A-1130(f);
- (18) Sport fish special fund under section 187A-9.5;
- (19) Neurotrauma special fund under section 321H-4;
- (20) Center for nursing special fund under section [[304A-2163]];
- (21) Passenger facility charge special fund established by section 261-5.5;
- (22) Court interpreting services revolving fund under section 607-1.5;
- (23) Trauma system special fund under section 321-22.5;
- (24) Hawaii cancer research special fund;
- (25) Community health centers special fund; and
- (26) Emergency medical services special fund[;];

shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned.[;]"

SECTION 9. Section 37-53, Hawaii Revised Statutes, is amended to read as follows:

"**§37-53 Transfer of special funds.** At any time during a fiscal year, notwithstanding any other law to the contrary, any department may, with the approval of the governor or the director of finance if so delegated by the governor, transfer from any special fund relating to such department to the general revenues of the State all or any portion of moneys determined to be in excess of fiscal year requirements for such special fund, except for special funds under the control of the department of transportation relating to highways, airports, transportation use, and harbors activities, special funds

under the control of the Hawaii health systems corporation[~~;~~] or subaccounts under the control of its regional affiliate boards, and special funds of the University of Hawaii. At any time the department of transportation, with the approval of the governor or the director of finance if so delegated by the governor, may transfer from any special fund under the control of the department of transportation, or from any account within any such special fund, to the general revenues of the State or to any other special fund under the control of the department of transportation all or any portion of moneys determined to be in excess of requirements for the ensuing twelve months determined as prescribed by rules adopted pursuant to chapter 91; provided that no such transfer shall be made which would cause a violation of federal law or federal grant agreements."

SECTION 10. Section 37-74, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) No appropriation transfers or changes between programs or agencies shall be made without legislative authorization; provided that:

- (1) Authorized transfers or changes, when made, shall be reported to the legislature;
- (2) Except with respect to appropriations to fund financing agreements under chapter 37D, the University of Hawaii shall have the flexibility to transfer appropriated funds and positions for the operating cost category among programs, among cost elements in a program, and between quarters, as applicable; except with respect to appropriations to fund financing agreements under chapter 37D, the department of education shall have the flexibility to transfer appropriated funds and positions for the operating cost category among programs and among cost elements in a program, and between quarters, as applicable; and the Hawaii health systems corporation and its regional affiliate boards shall have the flexibility to transfer special fund appropriations among community hospitals facilities as applicable[~~;~~] and as mutually agreed to by the corporation and the respective regional affiliate board; provided that the Hawaii health systems corporation and the regional affiliate boards shall maintain the integrity and services of each individual facility and shall not transfer appropriations out of any facility that would result in a reduction of services offered by the facility, with due regard for statutory requirements, changing conditions, the needs of the programs, and the effective utilization of resources; and
- (3) The university and the department of education shall account for each transfer implemented under this subsection in quarterly reports to the governor and annual reports at the end of each fiscal year to the legislature and the governor, which shall be prepared in the form and manner prescribed by the governor and shall include information on the sources and uses of the transfer."

SECTION 11. Section 37D-1, Hawaii Revised Statutes, is amended by amending the definition of "agency" to read as follows:

"'Agency' or 'participating agency' means the judiciary, any executive department, any independent commission, any board, any authority, any bureau, any office, any other establishment of the State (except the legislature and its agencies), or any public corporation that is supported in whole or in part by state funds, or any agent thereof, authorized by law to expend available moneys; provided that the Hawaii health systems corporation and its regional affiliate boards shall not be governed by this chapter for any financing agreement unless it elects to [~~do so~~] be."

SECTION 12. Section 37D-2, Hawaii Revised Statutes, is amended to read as follows:

"**§37D-2 Financing agreements.** (a) There is hereby established and authorized the financing agreement program of the State. Any

agency desiring to acquire or improve projects through the financing agreement program established and authorized by this chapter shall submit a written request to the department providing such information as the department shall require. Notwithstanding any other law to the contrary, and except for the Hawaii health systems corporation[~~;~~] and its regional affiliate boards, only with the approval by the attorney general as to form and legality and upon the written request of one or more participating agencies may the department enter into a financing agreement in accordance with this chapter, except that the board of regents of the University of Hawaii may enter into a financing agreement in accordance with this chapter without the approval of the director and of the attorney general as to form and legality if the principal amount of the financing agreement does not exceed \$3,000,000. A financing agreement may be entered into by the department on behalf of one or more participating agencies at any time (before or after commencement or completion of any improvements or acquisitions to be financed) and shall be upon terms and conditions the department finds to be advantageous. In each case of a written request by the judiciary to participate in the financing agreement program, the department shall implement the request; provided that the related financing agreement shall be upon terms and conditions the department finds to be advantageous. Any financing agreement entered into by the department without the approval required by this section shall be void and of no effect. A single financing agreement may finance a single item or multiple items of property to be used by multiple agencies or may finance a single item or multiple items of property to be used by a single agency. The department shall bill any participating agency that benefits from property acquired with the proceeds of a financing agreement for such participating agency's pro rata share of:

- (1) The department's costs of administration of the financing agreement program; and
- (2) The financing costs, including the principal and interest components of the financing agreement and insurance premiums;

on a monthly or other periodic basis, and may deposit payments received in connection with the billings with a trustee as security for a financing agreement. Any participating agency receiving such a bill shall be authorized and shall pay the amounts billed from the available moneys.

(b) Financing agreements shall be subject to the following limitations:

- (1) Amounts payable by a participating agency to or upon the direction of the department in respect to a project and by the department under a financing agreement shall be limited to available moneys. In no circumstance shall the department be obligated to pay amounts due under a financing agreement from any source other than available moneys. If, by reason of insufficient available moneys or other reason, amounts due under a financing agreement are not paid when due, the lender may exercise any property right that the department has granted to it in the financing agreement, against the property that was purchased with the proceeds of the financing agreement, and apply the amounts so received toward payments scheduled to be made by the department under the financing agreement;
- (2) No property rights may be granted in property unless the property is being acquired, is to be substantially improved, is to be refinanced with the proceeds of a financing agreement, or is land on which the property is located;
- (3) Notwithstanding any other law to the contrary, and except for the Hawaii health systems corporation and its regional affiliate boards, and as otherwise provided in this section with respect to the University of Hawaii, and except as provided in chapter 323F as to the Hawaii health systems corporation[~~;~~] and its regional affiliate boards, an agency shall not have the power to

enter into a financing agreement, except through the department as authorized by this chapter, and nothing in this chapter shall be construed to authorize the sale, lease, or other disposition of property owned by an agency;

- (4) Except as otherwise provided in this section with respect to the University of Hawaii, the sale, assignment, or other disposition of any financing agreements, including certificates of participation relating thereto, shall require the approval of the director; and
- (5) The department shall not be subject to chapter 103D and any and all other requirements of law for competitive bidding for financing agreements."

SECTION 13. Section 41D-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any provision in this section to the contrary notwithstanding, the University of Hawaii (as to casualty insurance risks only), the Research Corporation of the University of Hawaii (as to casualty insurance risks only), ~~and~~ the public health facilities of the department of health (with respect to medical malpractice risks only), and the Hawaii health systems corporation and its regional affiliate boards shall be exempt from the requirements of this chapter."

SECTION 14. Section 102-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The bidding requirements of subsection (a) shall not apply to concessions or space on public property set aside for the following purposes:

- (1) For operation of ground transportation services and parking lot operations at airports, except for motor vehicle rental operations under chapter 437D;
- (2) For lei vendors;
- (3) For airline and aircraft operations;
- (4) For automatic teller machines and vending machines, except vending machines located at public schools operated by blind or visually handicapped persons in accordance with section 302A-412;
- (5) For operation of concessions set aside without any charge;
- (6) For operation of concessions by handicapped or blind persons; except concessions operated in the public schools by blind or visually handicapped persons in accordance with section 302A-412;
- (7) For operation of concessions on permits revocable on notice of thirty days or less; provided that no such permits shall be issued for more than a one year period;
- (8) For operation of concessions or concession spaces for a beach service association dedicated to the preservation of the Hawaii beachboy tradition, incorporated as a nonprofit corporation in accordance with state law, and whose members are appropriately licensed or certified as required by law;
- (9) For operation of concessions at county zoos, botanic gardens, or other county parks which are environmentally, culturally, historically, or operationally unique and are supported, by nonprofit corporations incorporated in accordance with state law solely for purposes of supporting county aims and goals of the zoo, botanic garden, or other county park, and operating under agreement with the appropriate agency solely for such purposes, aims, and goals;

(10) For operation of concessions that furnish goods or services for which there is only one source, as determined by the head of the awarding government agency in writing that shall be included in the contract file; ~~and~~

(11) For operation of concession or concession spaces at the convention center under chapter 201B[-]; and

(12) For any of the operations of the Hawaii health systems corporation and its regional affiliate boards."

SECTION 15. Section 103-53, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) This section shall not apply to:

- (1) Any procurement of less than \$25,000 or that is considered a small purchase under section 103D-305 and any state or county department contract of less than \$25,000;
- (2) Emergency purchases for the procurement of goods, services, or construction under section 103D-307, disaster relief under chapter 127, or a civil defense emergency under chapter 128;
- (3) Grants and subsidies disbursed by a state agency pursuant to chapter 42F or in accordance with standards provided by law as required by article VII, section 4, of the State Constitution, or made by the counties pursuant to their respective charters or ordinances;
- (4) Contracts or agreements between government agencies;
- (5) Contracts or agreements to disburse funds:
 - (A) To make payments to or on behalf of public officers and employees for salaries, fringe benefits, professional fees, and reimbursements;
 - (B) To satisfy obligations required to be paid by law, including fees, judgments, settlements, and other payments for resolving claims;
 - (C) To make refunds or return funds held by the State or county as trustee, custodian, or bailee;
 - (D) For entitlement programs, including public assistance, unemployment, and workers' compensation programs, established by state or federal law;
 - (E) For deposit, investment, or safekeeping, including sums to pay expenses related to their deposit investment, or safekeeping;
 - (F) For loans under government-administered loan programs; or
 - (G) To make periodic, recurring payments for utility services; ~~and~~
- (6) Rent for the use or occupation of the premises and facilities at Aloha Stadium, the convention center, or any other state or county large spectator events facility[-]; and
- (7) Contracts or agreements of the Hawaii health systems corporation and its regional affiliate boards."

SECTION 16. Section 323F-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Regional affiliate board" means a community-based governing board of directors of a region of the corporation."

SECTION 17. Section 323F-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Ten members of the corporation board shall be appointed by the governor [as follows:

- (1) ~~One member from region I who resides in the city and county of Honolulu;~~
- (2) ~~One member from region II who resides in the county of Kauai;~~
- (3) ~~One member from region III who resides in the county of Maui;~~
- (4) ~~One member from region IV who resides in the eastern section of the county of Hawaii;~~
- (5) ~~One member from region V who resides in the western section of the county of Hawaii;~~
- (6) ~~One member from region II who resides in the county of Kauai or from region III who resides in the district of Hana or on the island of Lanai; provided that in no event shall the member be appointed from the same region for two consecutive terms; and~~
- (7) ~~Four at large members who reside in the State.~~

The eleventh member shall be the chairperson of the executive public health facility management advisory committee, who shall serve as an ex officio, voting member.] from the members of the regional affiliate boards of each region created pursuant to sections 323F-A and 323F-D, as follows:

- (1) Two members of the regional affiliate board for region I who reside in the city and county of Honolulu;
- (2) Two members of the regional affiliate board for region II who reside in the county of Kauai;
- (3) Two members of the regional affiliate board for region III who reside in the county of Maui;
- (4) Two members of the regional affiliate board for region IV who reside in the eastern section of the county of Hawaii; and
- (5) Two members of the regional affiliate boards for region V who reside in the western section of the county of Hawaii.

The eleventh and twelfth [member.] members, who shall serve as [a] voting [member.] members, shall be [a physician] physicians with active medical staff privileges at one of the corporation's public health facilities. The physician [member] members shall each serve a term of two years. [~~The initial physician member shall be from region II, and subsequent physician members shall come from regions IV, III, and V respectively. The physician member position shall continue to rotate in this order.~~] The physician [member] members shall be appointed to the corporation board by a simple majority vote of the [members of the executive public health facility management advisory committee] corporation board from a list of qualified nominees submitted by the public health facility management advisory committee [~~for the region from which the physician member is to be chosen.~~] or by any regional affiliate board. The corporation board shall choose physicians from different regions and rotate the appointments among the five regions.

If for any reason a physician member is unable to serve a full term, the remainder of that term shall be filled by a physician from the same region.

The thirteenth member shall be the director of health or the director's designee, who shall serve as an ex officio, voting member.

~~Appointments to the corporation board, with the exception of the [chairperson of the executive public health facility management advisory committee and the regional] physician [member.] members appointed by the corporation board, shall be made by the governor, subject to confirmation by the senate pursuant to section 26-34. [Prior to the transfer date, the] The [public health facility management advisory committees] regional affiliate boards appointed [pursuant to section 323-66] for each [county] region may recommend names to the governor for each position on the corporation board designated for [a] the respective region [which corresponds to its county]. [After the transfer date, the public health facility management advisory committees appointed pursuant to section 323F-10 for each region may make such recommendations to the governor.] The appointed board members shall serve for a term of four years; provided that [upon the initial appointment of the first ten members:~~

- (1) ~~Two at large members shall be appointed for a term of two years;~~
- (2) ~~Three at large members shall be appointed for a term of three years; and~~
- (3) ~~Five regional members shall be appointed for a term of four years.] the first member appointed from each regional affiliate board shall be appointed for a term of two years.~~

Any vacancy shall be filled in the same manner provided for the original appointments[.], except where a public management advisory committee has been abolished, in which case, the regional affiliate board shall take the necessary action set forth in this subsection. The corporation board shall elect its own chair from among its members. Appointments to the corporation board shall be as representative as possible of the system's stakeholders as outlined in this subsection."

SECTION 18. Section 323F-4, Hawaii Revised Statutes, is amended to read as follows:

"**§323F-4 Board meetings.** (a) The corporation board shall meet no fewer than four times a year. The corporation board and each regional affiliate board shall be exempt from part I of chapter 92 and shall meet no fewer than six times a year; provided that the regional affiliate boards shall hold at least two public community meetings for the purpose of informing the community and taking comment on the region's performance. [~~All meetings of the corporation board shall be subject to chapter 92, except that in addition to matters exempted pursuant to law, the corporation board may elect to hold an executive meeting for the consideration of any matters set forth in section 323F-6.]~~

(b) All business of the corporation board and each regional affiliate board shall be conducted at a regular or special meeting at which a quorum is present, consisting of at least a majority of the directors then in office. Any action of the corporation board or each regional affiliate board shall require the affirmative vote of a majority of those present and voting at the meeting; except that a vote of two-thirds of the [members] entire membership of the [corporation] respective board then in office shall be required for any of the following actions:

- (1) Removal by the corporation board or respective regional affiliate board of one of its members[.], ~~with the exception of the eleventh and twelfth members set forth in section 323F-3, who may only be removed pursuant to sections 323F-10 and 323F-10.5];~~
- (2) Amendment by the corporation or a regional affiliate board of its bylaws;
- (3) Hiring or removing the chief executive officer of the corporation[;] or regional chief executive officer; and

- (4) Any other actions as provided by the corporation or regional affiliate board bylaws."

SECTION 19. Section 323F-5, Hawaii Revised Statutes, is amended to read as follows:

"[~~§323F-5~~] **Disclosure of interests.** All corporation and regional affiliate board members and employees of the corporation shall be subject to chapter 84."

SECTION 20. Section 323F-6, Hawaii Revised Statutes, is amended to read as follows:

"[~~§323F-6~~] **Records.** The corporation and each regional affiliate board shall be subject to the requirements of chapter 92F, except that the following categories of government records shall not be required to be disclosed:

- (1) Applications for credentials or staff privileges at any of the corporation's medical facilities, records from peer review proceedings, and medical records; and
- (2) Marketing strategies, strategic plans, evaluations, assessments, negotiations, or rates and charges, the disclosure of which would raise the cost of procurement or give a manifestly unfair advantage to any competitor or to any person or entity seeking to do business or proposing to enter into an agreement with a regional affiliate board, the corporation, or any of its facilities.

Any person denied access to any such government records shall have available the remedies specified in sections 92F-15 and 92F-15.5. Government records protected from disclosure by this section shall be subject to the interagency disclosure provisions of section 92F-19. Section 624-25.5 shall apply to this part notwithstanding anything to the contrary contained in this section."

SECTION 21. Section 323F-7, Hawaii Revised Statutes, is amended to read as follows:

"~~§323F-7~~ **Duties and powers of the corporation and regional affiliate boards.** (a) Notwithstanding any other law to the contrary and unless otherwise specified, only those duties and powers related to corporation-wide matters, including but not limited to corporation-wide budgeting, personnel policies, procurement policies, fiscal policies, accounting policies, policies related to affiliations, joint ventures and contracts, regulatory compliance, risk management, strategic planning, and capital planning, including the issuance of revenue bonds in any amount, shall be carried out by the corporation [~~shall have and exercise the following duties~~] board. Duties and powers related to the operation of facilities within each region, including but not limited to regional and facility budgeting, employment and removal of regional and facility personnel, purchasing, regional strategic and capital planning, organization, quality assurance, improvement and reporting, credentialing of medical staff, and the issuance of revenue bonds in any amount with corporation board approval, shall be carried out by the regional affiliate boards, either directly or by delegation to regional and facility administration. Unless otherwise prohibited, the duties and powers granted to the corporation board may be delegated to the regional affiliate boards.

(b) Notwithstanding any other law to the contrary, the corporation, either directly or through any of the regional affiliate boards, shall exercise the following duties and powers:

- (1) Developing [~~its own~~] corporation-wide policies, procedures, and rules necessary or appropriate to plan, operate, manage, and control the system of public health facilities and services without regard to chapter 91; provided that each regional affiliate board shall be responsible for its own policies, procedures, and rules necessary or appropriate to plan,

operate, manage, and control the public health facilities within its own region consistent with corporate policies;

- (2) Evaluating the need for additional health facilities and services; provided that each regional affiliate board shall be responsible for the evaluation within its own region;
- (3) Entering into and performing any contracts, leases, cooperative agreements, partnerships, or other transactions whatsoever that may be necessary or appropriate in the performance of its purposes and responsibilities, and on terms [~~it~~] the corporation, with agreement of the affected regional affiliate boards, may deem appropriate, with either:
 - (A) Any agency or instrumentality of the United States, or with any state, territory, or possession, or with any subdivision thereof; or
 - (B) Any person, firm, association, partnership, or corporation, whether operated on a for-profit or not-for-profit basis; provided that the transaction furthers the public interest;
- (4) Conducting activities and entering into business relationships as the corporation board, with the agreement of the affected regional affiliate boards, deems necessary or appropriate, including but not limited to:
 - (A) Creating nonprofit corporations, including but not limited to charitable fund-raising foundations, to be controlled wholly by the corporation, any regional affiliate board, or jointly with others;
 - (B) Establishing, subscribing to, and owning stock in business corporations individually or jointly with others; and
 - (C) Entering into partnerships and other joint venture arrangements, or participating in alliances, purchasing consortia, health insurance pools, or other cooperative arrangements, with any public or private entity; provided that any corporation, venture, or relationship entered into under this section furthers the public interest; provided further that this paragraph shall not be construed to authorize the corporation or a regional affiliate board to abrogate any responsibility or obligation under paragraph (15);

provided that each regional affiliate board shall be responsible for conducting the activities under this paragraph in its own region consistent with policies established by the corporation board;
- (5) Participating in and developing prepaid health care service and insurance programs and other alternative health care delivery programs, including programs involving the acceptance of capitated payments or premiums that include the assumption of financial and actuarial risk; provided that each regional affiliate board shall be responsible for conducting the activities under this paragraph in its own region consistent with policies established by the corporation board;
- (6) Executing, in accordance with all applicable bylaws, rules, and laws, all instruments necessary or appropriate in the exercise of any powers of the [~~corporation's powers;~~] corporation or regional affiliate boards;
- (7) Preparing and executing all [~~corporation~~] corporation-wide budgets, policies, and procedures; [~~or any regional budgets, policies, and procedures;~~] provided that the regional affiliate boards shall submit their regional and facility budgets to the corporation to be consolidated into a corporation-wide budget for purposes of corporation-wide planning and appropriation requests;

- (8) Setting rates and charges for all services provided by the corporation without regard to chapter 91; provided that the duty and power of the corporation board shall be limited to approving the rates and charges developed by the regional affiliate boards for the region's facilities and services. A region's rates and charges shall be consolidated with the rates of other regions into one charge master. Third-party payor contracts may be negotiated at the corporation-wide level with input from the regions, taking into consideration the rates set by the regional affiliate boards;
- (9) Developing a corporation-wide hospital personnel system that is subject to chapters 76 and 89; provided that employment of regional and facility personnel shall be the responsibility of the regional affiliate boards pursuant to corporation-wide policies and procedures, applicable laws, rules, and regulations, and applicable collective bargaining agreements;
- (10) Developing the corporation's corporation-wide capital and strategic plans[;] or any regional affiliate board's regional capital and strategic plans; provided that each regional affiliate board shall be responsible for development of capital and strategic plans in its own region that shall be consistent with, and incorporated into, the overall corporation-wide plans;
- (11) Suing and being sued; provided that the corporation and the regional affiliate boards shall enjoy the same sovereign immunity available to the State;
- (12) Making and altering corporation board and regional affiliate board bylaws for its organization and management without regard to chapter 91[;] and consistent with this chapter; provided that each regional affiliate board shall be responsible for the final approval of its regional affiliate board bylaws;
- (13) Adopting rules[;] without regard to chapter 91[;] governing the exercise of [its] the corporation's or regional affiliate boards' powers and the fulfillment of its purpose under this chapter;
- (14) Entering into any contract or agreement whatsoever, not inconsistent with this chapter or the laws of this State, and authorizing the corporation, regional affiliate boards, and chief executive [officer] officers to enter into all contracts, execute all instruments, and do all things necessary or appropriate in the exercise of the powers granted in this chapter, including securing the payment of bonds; provided that the regional affiliate boards shall be responsible for entering into contracts and executing all instruments relating to matters exclusively affecting its region consistent with corporation-wide policies;
- (15) Issuing revenue bonds subject to the approval of the legislature; provided that all revenue bonds shall be issued pursuant to part III, chapter 39; provided further that the corporation shall have the power to incur debt, including the issuance of revenue bonds in any amount, and the regional affiliate boards shall have the power to issue revenue bonds in any amount upon approval by the corporation board;
- (16) Reimbursing the state general fund for debt service on general obligation bonds or reimbursable general obligation bonds issued by the State for the purposes of the corporation[;] or any regional affiliate board;
- (17) Pledging or assigning all or any part of the receipts and revenues of the corporation or the regional affiliate boards for purposes of meeting bond or health systems liabilities;
- (18) Owning, purchasing, leasing, exchanging, or otherwise acquiring property, whether real, personal or mixed, tangible or intangible, and of any interest therein, in the name of the corporation, which property is not owned or controlled by the State but is owned or controlled by the corporation; provided that the corporation shall delegate custodial control over such property to a regional affiliate board in any region where policies have been established consistent with corporate policies regarding the management of the property;
- (19) Maintaining, improving, pledging, mortgaging, selling, or otherwise holding or disposing of property, whether real, personal or mixed, tangible or intangible, and of any interest therein, at any time and manner, in furtherance of the purposes and mission of the corporation[;] or any regional affiliate board; provided that the corporation legally holds or controls the property in its own name; provided further that the corporation or any regional affiliate board shall not sell, assign, lease, hypothecate, mortgage, pledge, give, or dispose of all or substantially all of its property; and provided further that the corporation shall delegate control over such property to the regional affiliate board in any region where policies consistent with corporation-wide policies have been established implementing this subsection;
- (20) Purchasing insurance and creating captive insurers in any arrangement deemed in the best interest of the corporation, including but not limited to funding and payment of deductibles and purchase of reinsurance; provided that only the corporation shall have the power to create captive insurers to benefit public health facilities and operations; and provided further that a regional affiliate board may purchase insurance for its region in collaboration with the other regions and the corporation until captive coverage is provided by the corporation;
- (21) Acquiring by condemnation, pursuant to chapter 101, any real property required by the corporation to carry out the powers granted by this chapter;
- (22) Depositing any moneys of the corporation in any banking institution within or without the State, and appointing, for the purpose of making deposits, one or more persons to act as custodians of the moneys of the corporation[;] provided that regional affiliate boards may deposit moneys in banking institutions pursuant to corporation-wide guidelines established by the corporation board;
- (23) Contracting for and accepting any gifts, grants, and loans of funds, property, or any other aid in any form from the federal government, the State, any state agency, or any other source, or any combination thereof, and complying, subject to this chapter, with the terms and conditions thereof; provided that the regional affiliate boards shall be responsible for contracting for and accepting any gifts, grants, loans, property, or other aid if intended to benefit the public health facilities and operations exclusively in their respective regions;
- (24) Providing health and medical services for the public directly or by agreement or lease with any person, firm, or private or public corporation, partnership, or association through or in the health facilities of the corporation or regional affiliate boards or otherwise; provided that the regional affiliate boards shall be responsible for conducting the activities under this paragraph in their respective regions;
- (25) Approving medical staff bylaws, rules, and medical staff appointments and reappointments for all public health facilities[;] of the corporation or any regional affiliate board, including [without limitation,] but not limited to determining the conditions under which a health professional may be extended the privilege of practicing within a health facility, as determined by the respective regional affiliate board and consistent with corporate-wide policies, and adopting and implementing reasonable rules, without regard to chapter 91, for the credentialing and peer review of all persons and health professionals within the facility; provided that regional affiliate boards shall be the governing body responsible for all

medical staff organization, peer review, and credentialing activities to the extent allowed by law;

- (26)(A) Investing any funds not required for immediate disbursement in property or in securities that meet the standard for investments established in chapter 88 as provided by the corporation board; provided the investment assists the corporation in carrying out its public purposes; selling from time to time securities thus purchased and held, and depositing any securities in any bank or financial institution within or without the State. Any funds deposited in a banking institution or in any depository authorized in this section shall be secured in a manner and subject to terms and conditions as the corporation board may determine, with or without payment of any interest on the deposit, including[;] without limitation[;] time deposits evidenced by certificates of deposit. Any bank or financial institution incorporated under the laws of this State may act as depository of any funds of the corporation or a regional affiliate board and may issue indemnity bonds or may pledge securities as may be required by the corporation or regional affiliate board; provided that regional affiliate boards may exercise the powers under this subsection with respect to financial assets of the region consistent with corporation-wide policies; and
- (B) Notwithstanding subparagraph (A), contracting with the holders of any of its notes or bonds as to the custody, collection, securing, investment, and payment of any moneys of the corporation or regional affiliate board and of any moneys held in trust or otherwise for the payment of notes or bonds and carrying out the contract. Moneys held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds, and deposits of such moneys, may be secured in the same manner as moneys of the corporation[;] or regional affiliate board, and all banks and trust companies are authorized to give security for the deposits;
- (27) Entering into any agreement with the State, including but not limited to contracts for the provision of goods, services, and facilities in support of the corporation's programs[;] or the regional affiliate boards' programs, and contracting for the provision of services to or on behalf of the State; provided that the regional affiliate boards shall be responsible for entering into agreements to provide goods, services, and facilities in support of programs in their respective regions consistent with corporation-wide policies;
- (28) Having a seal and altering the same at pleasure;
- (29) Waiving, by means that the corporation or regional affiliate board deems appropriate, the exemption from federal income taxation of interest on the corporation's or regional affiliate boards' bonds, notes, or other obligations provided by the Internal Revenue Code of 1986, as amended, or any other federal statute providing a similar exemption;
- (30) Developing internal policies and procedures for the procurement of goods and services, consistent with the goals of public accountability and public procurement practices[;] and subject to chapter 103D but enjoying the exemption under section 103-53(e); provided that the regional affiliate boards shall be responsible for developing internal policies and procedures for each of their regions consistent with the corporation's policies and procedures;
- (31) Authorizing and establishing positions; provided that regional affiliate boards shall be responsible for hiring and firing regional and facility personnel consistent with corporation policies, except a regional chief executive officer shall only be hired or dismissed upon the approval of the regional affiliate board and the corporation board;

~~[(32) Calling upon the attorney general for such legal services as the corporation may require; and~~

~~[(33) (32) Having and exercising all rights and powers necessary or incidental to or implied from the specific powers granted in this chapter, which specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this chapter[;]; provided that the regional affiliate boards shall be responsible for having and exercising all powers and rights with respect to matters in their regions consistent with the law; and~~

~~(33) Each region, through its regional affiliate board, shall:~~

~~(A) Develop policies and procedures necessary or appropriate to plan, operate, manage, and control the day-to-day operations of facilities within the region that are consistent with corporation-wide policies;~~

~~(B) Exercise custodial control over and use of all assets of the corporation that are located in the region pursuant to this chapter; and~~

~~(C) Expend funds within its approved regional budget and expend additional funds in excess of its approved regional budget upon approval of the corporation board.~~

~~[(b)](c) The corporation and each regional affiliate board shall not be subject to chapters 36 to 38, 40, and 41D, and shall enjoy the exemptions contained in sections 102-2 and 103-53(e), except as otherwise provided in this chapter.~~

~~[(e)](d) The duties and powers granted to the corporation or any regional affiliate board may not be used to enter into contractual or business relationships [~~which~~] that have the practical effect of allowing or are intended to allow [~~the private sector~~] private-sector counterparts to replace existing employee positions or responsibilities within the corporation, regions, or its facilities; provided the corporation or regional affiliate boards shall be allowed to enter into such relationships to the extent and for the purposes that the division of community hospitals could have done under collective bargaining contracts [~~which~~] that were in effect for the 1995-1996 fiscal year."~~

SECTION 22. Section 323F-8, Hawaii Revised Statutes, is amended to read as follows:

"§323F-8 **Chief executive officer; exempt positions.** (a) The corporation board may appoint, exempt from chapter 76 and section 26-35(a)(4), a chief executive officer of the corporation whose salary shall be set by the corporation board. The chief executive officer may also appoint up to eighteen other personnel, exempt from chapters 76 and 89, to work directly for the chief executive officer and the corporate board.

(b) The corporation board or its designee may discharge its exempt personnel with or without cause; provided that removal without cause shall not prejudice any contract rights of personnel.

(c) The corporation's chief executive officer or the chief executive officer's designee may appoint, exempt from chapters 76 and 89, hospital administrators, assistant administrators, directors of nursing, medical directors, and staff physicians, to facilitate the management of facilities within the corporation; provided that directors of nursing appointed before July 1, 1998, may maintain their civil service status as provided in chapter 76 by so communicating in writing to the chief executive officer by October 31, 1998. Hospital administrators and assistant administrators appointed before July 1, 1983, may maintain their permanent civil service status as provided in chapter 76.

(d) Hiring, firing, compensation packages, and other personnel actions of employees not covered by chapter 76 and 89 shall be governed by policies and guidelines established by the corporation.

(e) Upon the establishment of a regional affiliate board, the authority to appoint regional hospital administrators, assistant administrators, directors of nursing, medical directors, and staff physicians under subsection (c) shall be superseded by section 323F-B for that region. No incumbent personnel shall lose a position without specific action taken by the regional affiliate board."

SECTION 23. Section 323F-9, Hawaii Revised Statutes, is amended to read as follows:

"~~[§323F-9]~~ **Hiring of attorneys.** The corporation and regional affiliate boards may employ or retain any attorney, by contract or otherwise, for the purpose of representing the corporation or regional affiliate boards in any litigation, rendering legal counsel ~~[to]~~, or drafting legal documents for the corporation ~~[, or drafting legal documents for the]~~ or regional affiliate boards."

SECTION 24. Section 323F-10, Hawaii Revised Statutes, is amended to read as follows:

"**§323F-10 Regional public health facility management advisory committees.** (a) On the transfer date, there shall be established within the corporation for each region, a public health facility management advisory committee to consist of nine members initially to be appointed by the chief executive officer of the corporation with the advice of the hospital administrators of the facilities in the affected regions. The members shall serve for a term of four years; provided that upon the initial appointment of the members, two shall be appointed for a term of one year, two for a term of two years, two for a term of three years, and three for a term of four years.

Following the initial appointments by the chief executive officer of the corporation board, any vacancies on a regional committee shall be filled by a simple majority vote of the members of the executive committee from a list of qualified nominees submitted by the regional committee in which the vacancy occurred. If a regional committee vacancy remains unfilled for more than thirty days, that vacancy may be filled by the chief executive officer of the corporation.

Each regional management advisory committee shall include medical and health care providers, consumers, and knowledgeable individuals in other appropriate areas such as business and law; provided that at least one member shall be a physician with active medical staff privileges at one of the region's public health facilities. At least three members of the committee shall be consumers.

The management advisory committee for the East Hawaii region shall have three members who reside in the Ka'u district, three members who reside in the Hamakua/North Hilo districts, and three members who reside in the South Hilo/Puna districts. The management advisory committee for the West Hawaii region shall have not less than three members who reside in the North Kohala/South Kohala districts.

Each regional committee shall select its own chairperson and vice chairperson and shall adopt rules governing the terms of removal of its chairperson from the executive management advisory committee. In the event of a regional committee voting to remove its chairperson who concurrently sits on the corporation board, that vote shall be unanimous. In the event of a regional committee voting to remove its physician member from the corporation board, that vote shall also be unanimous. Each regional committee may also adopt other rules as it may consider necessary for the conduct of its business.

The members of the regional committees shall serve without compensation, but shall be reimbursed for traveling expenses incurred in the performance of their duties. The corporation shall

provide for the necessary expenses of the committees; provided that no expenses may be incurred without prior authorization by the chief executive officer.

(b) Each regional committee shall sit in an advisory capacity to the chief executive officer on matters concerning the formulation of regional operational and capital improvement budgets, and the planning, construction, improvement, maintenance, and operation of public health facilities within its respective jurisdiction and shall sit in an advisory capacity to the governor on matters concerning the nominees for positions on the corporation board. Nothing in this section shall be construed as precluding or preventing the committees from coordinating their efforts and activities with the facility administrators within their counties.

(c) Each regional committee may prepare a report for inclusion with the corporation's annual report and audit, which shall include but not be limited to comments and analyses on the corporation's regional operational and capital improvement budgets for its respective region.

(d) Upon the establishment of a regional affiliate board for a region pursuant to section 323F-A this section shall no longer apply to that region."

SECTION 25. Section 323F-10.5, Hawaii Revised Statutes, is amended to read as follows:

"~~[§323F-10.5]~~ **Executive public health facility management advisory committee; establishment.** (a) There is established within the corporation an executive public health facility management advisory committee to consist of the chairpersons of each of the five regional public health facility management advisory committees. The executive committee shall, through its chairperson, represent the interests of all regional committees on the corporation board.

(b) The executive committee shall select its own chairperson to serve on the corporation board and shall adopt rules governing the terms of office and removal from the corporation board. The executive committee shall also adopt rules governing the terms of office for each of the five regional committee chairpersons. The executive committee may also adopt other rules as it may consider necessary for the conduct of its business.

(c) The members of the executive committee shall serve without compensation, but shall be reimbursed for reasonable expenses incurred in the performance of their duties.

(d) Upon the establishment of a regional affiliate board for a region pursuant to section 323F-A this section shall no longer apply to that region."

SECTION 26. Section 323F-10.6, Hawaii Revised Statutes, is amended to read as follows:

"~~[§323F-10.6]~~ **Peer review and credentialing.** ~~[Corporation board or other committee meetings pertaining to peer review and credentialing matters shall not be subject to part I of chapter 92.]~~ Peer review activities shall be subject to ~~[the provisions of]~~ chapters 663 and 671D and all other provisions and restrictions of medical peer review committees established by state law."

SECTION 27. Section 323F-11, Hawaii Revised Statutes, is amended to read as follows:

"~~[§323F-11]~~ **Executive branch; noninterference.** Notwithstanding any other law to the contrary, the governor and executive branch agencies shall limit their responsibilities to that of review and oversight when the corporation or regional affiliate board receives general funds from the State to subsidize the operating budgets of deficit facilities. The governor and executive branch agencies shall not interfere with the systemic change, capacity

building, advocacy, budget, personnel, system plan development, or plan implementation activities of the corporation. The governor and executive branch agencies shall not interfere with the ability of the corporation or regional affiliate board to function as a multiple facility public hospital system delivering health care services to the residents of the State."

SECTION 28. Section 323F-21, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§323F-21]]~~ **Fiscal provisions.** (a) There is created in the state treasury a special fund to be known as the health systems special fund, into which shall be deposited all fees, proceeds, reimbursements, and the like owed to or received by the corporation and its facilities, except as herein provided. There shall be established within the special fund regional subaccounts for each regional affiliate board upon its establishment. The special fund and the regional subaccounts shall be used solely to fulfill the purposes outlined in this chapter.

The corporation and each regional affiliate board may establish and maintain, within ~~[[its]]~~ the health systems special fund, or any regional subaccount, any other accounts that may be necessary and appropriate to carry out its purposes and responsibilities.

The corporation and regional affiliate boards may provide reasonable reserves for any of the following purposes:

- (1) Insurance deductibles;
- (2) The improvement, replacement, or expansion of ~~[[its]]~~ their facilities or services;
- (3) The securing of the corporation's or regional affiliate boards' bonds, notes, or other instruments of indebtedness; or
- (4) Any other purpose ~~[[it]]~~ the corporation or regional affiliate board deems necessary or appropriate in the performance of ~~[[its]]~~ their purposes and responsibilities.

(b) The corporation board and regional affiliate boards shall collaboratively develop budgetary guidelines and annual operating and capital budgets for each facility~~[-]~~, taking into account anticipated surpluses from or subsidies to the facilities pursuant to the annual guidelines described in this section, accumulated corporation and regional reserves and accounts, subsidies, if any, that are determined to be needed from the general fund, and other sources of corporation-wide and regional income as may be identified. Two-year budgets will be approved for regional affiliate boards, in alignment with State of Hawaii biennium budgeting. The corporate board shall not alter the two-year budget of a region except:

- (1) Where state general funding is reduced;
- (2) There is an emergency; or
- (3) There is a renegotiated budget approved by a regional affiliate board.

The corporation and regional affiliate boards shall collaboratively develop budgetary guidelines, and ~~[[may allocate to]]~~ negotiate with each facility reasonable corporation administrative costs, including funds determined by the corporation or any regional affiliate board to be needed from or provided to each facility to:

- (1) Repay corporation or regional affiliate board debts;
- (2) Provide subsidies to any facility determined to be unable to fund from within that facility's programs and services deemed essential to community needs; and
- (3) Maintain appropriate reserves.

(c) The corporation and regional affiliate boards shall collaboratively develop annual corporation operating and capital budgets, taking into account anticipated surpluses from or subsidies to the facilities pursuant to the annual guidelines described in this section, accumulated corporation reserves and accounts, subsidies, if any, that are determined to be needed from the general fund, and other sources of corporation-wide income as may be identified.

(d) Beginning with the first of the legislative biennium budget years following the establishment of a regional affiliate board, and for each biennium period thereafter, the corporation shall call together all the regions through representatives selected by each regional affiliate board, and the chairs of the facility management advisory committees, if any, to determine which services and functions should be provided by the corporation for the next biennium budget period, consistent with this chapter. As part of the biennium budgeting process, the corporation board and the representatives of each region working through the corporation board regional representatives, shall agree upon an allocation methodology for funding the agreed upon and statutorily created corporate services and functions.

~~[[d]](e)~~ (e) The corporation may share in any facility's surplus and may offset any facility's deficits~~[-]~~ as provided herein. Any regional affiliate board shall share in the surplus of any facility within the its region and shall offset any facility deficits within its region. Operating surpluses of the regional affiliate board shall be reinvested in the operations of that region in any prudent manner; provided that upon request, and subject to authorization by the regional affiliate board, the regional affiliate board may share its surplus or resources with a facility outside of the region to benefit the corporation-wide system of health care. Obligations undertaken by a facility shall be paid only from funds of that facility, unless the corporation board, the regional affiliate board managing the facility, or ~~[[its]]~~ an authorized agent explicitly agrees to guarantee the obligation. Loans and other transfers may be made between regions upon approval of the affected regional affiliate boards to assist in the cash flow and operations of the public health facilities.

~~[[e]](f)~~ (f) In accordance with each annual facility budget, and subject to policies established by the corporation board, each facility of the corporation and regional affiliate board, shall:

- (1) Bill and collect for its services;
- (2) Maintain bank accounts; and
- (3) Pay for needed personnel, supplies, equipment, and other operational and capital expenditures.

~~[[f]](g)~~ (g) The corporation and each regional affiliate board, subject to policies established by the corporation and each regional affiliate board, may elect to manage its own capital improvement project and funds, either directly or indirectly by contract; provided that annual reports of the project moneys are provided to the governor and legislature.

(g) The corporation board regional affiliate boards may hold public informational meetings on ~~[[its budget]]~~ their budgets. Representatives of any county government, state government, or any other person having an interest in the budget, shall have the right to be heard at the meetings."

SECTION 29. Section 323F-22, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§323F-22]]~~ **Annual audit and report; disclosure of revenue projections.** (a) The corporation shall engage a certified public accountant to conduct an annual audit of its financial affairs, books, and records in accordance with generally accepted accounting principles. The corporation may, in consultation with a regional affiliate board, permit or require a regional affiliate board to retain an audit firm to conduct an independent audit of the region. The

corporation shall submit to the governor and the legislature within one hundred fifty days after the close of the corporation's fiscal year, a report that shall include the audited financial report for that fiscal year~~[-] for the corporation and each region.~~

(b) In addition to the submittal of the audit required under subsection (a), the corporation, in cooperation with the regional affiliate boards, shall submit a report to the legislature at least twenty days prior to the convening of each regular session that shall include but not be limited to:

- (1) The projected revenues for each health care facility;
- (2) A list of all proposed capital improvement projects planned for implementation during the following fiscal year; and
- (3) All reports submitted by regional public health facility management advisory committees pursuant to section 323F-10(c).

(c) The regional affiliate boards shall prepare a report for inclusion with the corporation's annual report and audit."

SECTION 30. Section 323F-23, Hawaii Revised Statutes, is amended to read as follows:

"~~[§323F-23]~~ **Exemption from taxation.** The corporation and each regional affiliate board shall ~~not~~ be ~~required to pay assessments~~ exempt from paying any:

- (1) Assessments levied by any county~~[-, nor shall the corporation be required to pay state]; and~~
- (2) State taxes of any kind."

SECTION 31. Section 323F-24, Hawaii Revised Statutes, is amended to read as follows:

"~~[§323F-24]~~ **Budget oversight.** The corporation's and each regional affiliate board's operating and capital improvement budgets shall not be subject to review or approval by the governor or any state agency, except where state general funds or capital improvement moneys are requested. If general funds or capital improvement moneys are requested, then the corporation or any regional affiliate board shall include with its request, the proposed budget for which the funds or moneys are to be included. The corporation and regional affiliate boards, once operational, shall collaboratively submit ~~[its] their~~ budgets annually to the legislature for review and approval at least twenty days prior to the convening of the regular legislative session, beginning with the budgets for the ~~[1997-1998] 2010-2011 biennium~~ fiscal years."

SECTION 32. Section 323F-31, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The corporation and each regional affiliate board shall notify the legislature of any planned substantial reduction or elimination of direct patient care services."

SECTION 33. (a) It is the intent of this Act that the ability of the Hawaii health systems corporation to carry out its mission and improve the quality and efficiency of care in all of its regions will be enhanced by the delegation to community-based, regional affiliate boards the custodial control over the assets, personnel, services and operations of the corporation located in the public health facilities, consistent with system-wide planning, policies, and guidelines. Such custodial control shall be delegated to the regional governing boards in any region in which such boards are created within a reasonable period of time following the effective date of section 2 of this legislation. This Act shall be construed with this intent.

(b) Following a transition period of no longer than one year after the establishment of each regional affiliate board, and by mutual

agreement, the governance and custodial control over the assets, personnel, services, and operations of the Hawaii health systems corporation with regard to the facilities within the region, shall be transferred to the regional affiliate board, consistent with system-wide planning, policies, and guidelines, and applicable laws and regulations. The corporation and newly established regional affiliate boards shall report to the legislature within thirty days of the establishment of the newly created boards. The corporation shall assist any region considering such a request. Each transition shall take no longer than one year, unless a longer period is mutually agreed to by the corporation and the region.

(c) Custodial control of the assets, including but not limited to hospital funds relating to health facilities in each region, shall be given to the regional affiliate board at such time as the regional affiliate board is established and notifies the corporate board that it has established necessary policies and structure to accept the responsibility of controlling the assets. Upon establishment, the regional affiliate board shall assume the responsibility of the Hawaii health systems corporation board with respect to the corresponding region for the administration of all contracts, agreements, and leases for commodities, services, property, and supplies used by the Hawaii health systems corporation and its facilities in that region, subject to oversight by the corporation board.

SECTION 34. There is appropriated out of the general revenues of the state of Hawaii the sum of \$500,000, or so much thereof as may be necessary for fiscal year 2007-2008, and the same sum, or so much thereof as may be necessary for fiscal year 2008-2009 to support the establishment of regional affiliate boards of the Hawaii health systems corporation. The sums appropriated shall be expended by the Hawaii health systems corporation for the purposes of this Act.

SECTION 35. All acts passed prior to or during this regular session of 2007, whether enacted before or after passage of this Act shall be interpreted to conform to this Act, unless the acts specifically provide that this Act is being amended. In so far as this Act is inconsistent with any other law, this Act shall control.

SECTION 36. In codifying the new sections added by section 2 of this Act, the reviser of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 37. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 38. This Act shall take effect upon its approval; provided that sections 2, 17, and 18 shall take effect on July 1, 2008."

Representative Morita moved that Floor Amendment No. 11 be adopted, seconded by Representative Takamine.

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

"Thank you, Mr. Speaker, I introduce this floor amendment with some anxiety. I had hoped that throughout my many years in this body that there would be some amicable resolution to the Maui Memorial Hospital's relationship within the Hawaii Health Systems Corporation. Unfortunately, there has not been. However, the underlying bill jeopardizes the entire system statewide, especially my island of Kauai at a time when Hawaii's statewide health safety net is at its most vulnerable and resources from the State may become scarcer.

"This floor amendment offers a compromise position establishing community based governance for the five regions of the HHSC system. These boards will not be separate legal entities, but under one umbrella, hopefully, to preserve the benefits of maintaining the HHSC as a system associated with economies of scale.

"Mr. Speaker, let me explain some of the details of the floor amendment. One, it forms an 11 member regional affiliate boards which would be established for each of the five regions of the HHSC system. The 13 member HHSC board would be reconstructed as bottom up, rather than top down. Regional boards would be granted custodial control and substantial responsibility for management of the facilities and other assets in each respective region. Each regional board would be empowered to appoint the regional CEO subject to the approval of the HHSC board. If the HHSC board is unable to act on important transactions in a timely manner, the chair of the HHSC board may further delegate authority to the regional affiliate board to take action on specific matters.

"The HHSC board would be granted duties and powers related to corporation-wide budgeting personnel policies, procurement policies, strategic planning and the development of a system-wide policies related to such matters as affiliations, multi-system and corporate office contracts, joint venture, regulatory compliance, collective bargaining, personnel, risk management, including insurance, and capital planning.

"Regional boards are granted a wide range of powers and duties. The regional boards would be responsible for developing facility and regional budgets. Revenues generated by a region will remain in that region, while each region will also be responsible for taking steps to address unbudgeted deficits, loan and other transfers of money between regions would be statutorily permitted upon approval of the regional boards. Strategic and capital plans would be developed at the regional level.

"HHSC and its regions will be subject to the procurement code. The regions would collaboratively assist in determining the services to be provided at the corporate level and methodology for determining allocations of administrative cost. Each regional board shall be responsible for all medical staff organization and there is an appropriation in this bill to carry out this transformation.

"Again, I want to stress that what this floor amendment will do is provide a reasonable restructuring of the system that was anticipated and offered as a type of governance when we moved back in, I believe it was 1996 or 1997, to look at this statewide system. I think it brings the House to a strong position as we move to Conference in offering a reasonable compromise to restructure this system.

"Also, Mr. Speaker, I would like to submit for the record a letter received from Larry Gage, President of the National Association of Public Hospitals and Health Systems outlining the problems with the underlying bill and what this floor amendment is striving to preserve in the statewide system. Thank you, Mr. Speaker."

Representative Morita submitted the following letter:

"TO THE HAWAII STATE LEGISLATURE:

I am writing to urge you to vote no on S.B. 1792 in its current form. S.B. 1792 would effectively dismantle an important and valuable system that has strengthened Hawaii's statewide health safety net for the past decade.

As President of the National Association of Public Hospitals and Health Systems, I have been closely involved with the Hawaii Health Systems Corporation (HHSC) and its predecessor organization, the Division of Community Hospitals, for over 20 years. In the early 1990s, I was asked to serve as consultant to the Governor's task force whose recommendations led to the creation of HHSC. As the preamble to S.B. 1792 points out, that task force originally called for the establishment of regional governing boards and the delegation of considerable operating autonomy to each of the five regions of HHSC. At the same time, the task force also intended Hawaii's state hospitals to benefit from the many efficiencies and economies of scale that would be inherent in a true system.

The benefits of maintaining HHSC as a system, as opposed to its fragmentation into stand-alone regions, sometimes appear to be lost in the current debate. Yet the "stand-alone" hospital – especially in rural areas – is rapidly becoming a thing of the past in most parts of the country. Just a few of the benefits identified in the health care literature are:

Elimination of duplicative services.

Economies of scale in purchasing.

Economies of scale in consolidating administrative functions.

Ability to utilize more sophisticated (and expensive) information technology across a system.

Collaboration within the system with respect to grants or research projects.

Collaboration within the system with respect to safety-net outreach and services, e.g., expertise or needs likely to be unique to HHSC across Hawaii.

Ability to cross-subsidize under-compensated safety-net services.

Cross-referrals within the system.

Marketing advantages, including economies of scale in creating a "brand name," ability to advertise broader and deeper expertise, more services, and more convenient locations.

Potential to enhance consumer confidence regarding consistency of quality, access to technology and services, geographic access, etc.

Ability to offer "one-stop shopping" and extended geographic coverage to insurers.

Enhanced negotiating leverage with respect to rate setting and reimbursement, and ability to negotiate state-wide agreements with HMO's and other insurers.

Enhanced lobbying strength in legislature and executive branch.

Economies and stability typically enhance access to and cost of capital.

System-wide access to patient data, through shared electronic medical records and similar technology, enhances quality of care, e.g., for a patient who needs care while on another island, also in contributing to the system's overall quality improvement efforts.

Sadly, the proponents of S.B. 1792 would achieve autonomy for just one region of HHSC, the Maui region, at the expense of dismantling and potentially destroying the HHSC system. Yet I don't believe this bill is even in the best interests of Maui. So many of the fiscal and programmatic improvements achieved to date by HHSC – even on Maui – would have been far more difficult for the state's hospitals to achieve on a fragmented, stand-alone basis. On Maui, these include a beautiful new hospital wing and the development of many state of the art services. And yet as everyone knows, economic viability is extremely fragile for all hospitals in today's volatile health care environment – and hard-won improvements could be easily reversed if an effective system like HHSC is dismantled.

It is true that after a decade of operation, HHSC can benefit from carefully considered organizational and structural reforms, including greater regional autonomy and implementation of the

community-based governance originally envisioned for the system. But to be effective, such reforms require a balance between system-wide and regional functions and responsibilities. Unfortunately, S.B. 1792, in its current form, does nothing to achieve such a balance, or preserve any of the benefits of the system. I urge you to vote no on this bill in its current form.

Larry Gage
President, National Association of Public Hospitals & Health Systems "

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

"Thank you, Mr. Speaker. In support of the floor amendment. Mr. Speaker, this bill could be the most important piece of legislation that we pass this Session. The Hawaii Health Systems Corporation is comprised of 12 community hospitals—13 when Kahuku is added—and it provides acute and long-term rural healthcare. This is the nation's fourth largest community hospital system, with more than 3,400 employees making the HHSC Hawaii's fifth largest employer. With that said, this bill could shape Hawaii's health care for the next decade. In fact, it's especially going to affect our Neighbor Islands

"I should note that this is such an important measure. We need this to go to Conference. I do want to acknowledge that although I do support the floor amendment, this is still a work in progress. Also, Mr. Speaker, I would like to remind our members that we are a bicameral legislature. We have two Chambers, the House and the Senate. We need a concurrent majority to pass legislation. The reason I bring this up, Mr. Speaker, is simple. It's leverage or bargaining power. If we go to Conference with this floor amendment, it does vary substantially from the Senate version. It will provide us with a lot of leverage to meet half way or compromise.

"The Senate version actually has five regions and it creates regional affiliate corporations. This is completely different from the floor amendment in that it effectively breaks up HHSC. It has substantial control of the corporations because they are five separate corporations, they're affiliate corporations. The floor amendment allows HHSC to remain intact. Keep in mind this is, again, I repeat, this is still work in progress and if it goes to Conference, things can be changed to make this measure air-tight.

"I do want to note also that there are a number of problems with HHSC. In fact, the Administrator himself admits that they have problems. We also need more autonomy for our Neighbor Island hospitals. We need more accountability and we can't continue to lose doctors, nurses, and health care workers. We need to better address the needs of our Neighbor Island hospitals. We can certainly do this with a measure. Again, the bottom line is this. This is still work in progress. We need this measure to pass this floor. Thank you, Mr. Speaker."

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

"Thank you. Just in strong support of the floor amendment, Mr. Speaker, and it's been said so beautifully that I do want to ask that the words of the Representative from Kalihi be incorporated as my own," and the Chair "so ordered." (By reference only.)

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

"Thank you, Mr. Speaker. I'm just rising in support of the amendment. I think that the Representative from Hana [Hanalei] made very good points. I think it's the concern of many of us in this Chamber, the concern that the underlying bill would weaken the HHSC. I'm particularly concerned because of the fact that Kahuku Hospital is hoping to come under the umbrella of HHSC and they are not in the black. They're in the red. And so, I think we all pretty

much have unanimity in our thought to keep HHSC as solid as we possibly can. Thank you."

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

"Thank you, Mr. Speaker. I rise in support of this floor amendment. First, I would like to incorporate the words of the Representative from Hanalei as if they were my own. I just wanted to mention just a few things. First, I think we all have received e-mails; I think hundreds of e-mails over the past few days, and I think that this particular floor amendment addresses the concerns raised by many in the communities, especially from the islands of Kauai and the Big Island.

"In addition, Mr. Speaker, when you take a look at this floor amendment, I think it's a more prudent approach to dealing with concerns raised by members in regards to our Hawaii Health Systems Corporation. It is the more prudent approach, Mr. Speaker, because blowing up the system as the Senate proposes, or carving out a bit of the system as the H.D. 2 proposes, I think destroys what we have worked so hard to create over the last ten years.

"And more importantly, Mr. Speaker, if you take a look at public policy, I think public policy is on the side of this floor amendment. A few years ago when we took a look at breaking up the school system into local school boards or a few years ago when we took a look at breaking up the university into separate campuses, we all came back to the conclusion, the realization, that keeping the umbrella over the entire system was the right way to go, and in this particular case, as well, for the Hawaii Health Systems Corp, it is the right way to go. By empowering the regional affiliates as this proposal provides, gives the Neighbor Islands and the rural areas of Oahu, a stronger say in their hospitals, specifically for their communities. And I think that's the right prudent approach, so, Mr. Speaker, I encourage our members to support this floor amendment. Thank you."

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

"Mr. Speaker. I rise in support of the amendment. Mr. Speaker, as much as we'd like to see Maui on its own, the timing is, unfortunately, not appropriate at this juncture. As the system was put together over 10 years ago to stabilize, stop the hospitals from bleeding, the wobbling, to systematize and get bulk purchasing, try to save money. It seems as though what we promised when we did that to get something like we have arrived at today, like a private-public partnership, or at least privatization like Maui is talking about, I think this system is too much in a crisis to do that. And that's why this amendment is needed for the sake of the whole system. The time is not right to do that even though we have to address it.

"The only thing, Mr. Speaker, that when we want to keep the integrity of the system that I have one concern of in this bill is when the introducer from Kauai said, and I checked in the bill, that there are going to be sub-accounts, the money stays in the regions. I think that's a good gesture for Maui and for others that may be in the black, even though I think Maui is probably not going to be in the black. But for those regions which are in desperate shape and have been in the red and will remain in the red, keeping the money in the region is contrary to what otherwise HHSC was designed for and that was all for one, one for all. We put all of our resources in one place.

"So, that's a very slight reservation, and I know it's a work in progress, it can be worked on. But for the sake of what we are doing now, I think for the long run, it's the best thing. Thank you, Mr. Speaker."

The motion that Floor Amendment No. 11, amending S.B. No. 1792, SD 3, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION," be adopted, was put to vote by the Chair and carried, with Representatives

Bertram, Cabanilla, Green, McKelvey, Souki, Thielen and Tokioka being excused.

At 7:05 o'clock p.m., the Chair noted that Floor Amendment No. 11 was adopted and that S.B. No. 1792, SD 3, HD 3 would be placed on the calendar for action on Thursday, April 12, 2007.

At this time, the Chair announced:

"Members of the House, this is the 48-hour notice for Floor Amendment No. 11. S.B. 1792, S.D. 3, H.D. 3, will be addressed on Thursday evening at 7:05 in the evening to meet the 48 hour requirement."

THIRD READING

S.B. No. 1882, SD 2, HD 1:

Representative Caldwell moved that S.B. No. 1882, SD 2, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

At this time, Representative Finnegan offered Floor Amendment No. 7, amending S.B. No. 1882, SD 2, HD 1, as follows:

SECTION 1. Senate Bill No. 1882, Senate Draft 2, House Draft 1 is amended by deleting its contents and inserting the following language, to read as follows:

"SECTION 1. This Act aims to provide an income tax cut for a vast majority of individual taxpayers. Increasing the standard deduction will primarily benefit low and moderate-income individuals by raising the Hawaii standard deduction to approximately seventy-five per cent of the 2005 federal standard deduction. In addition, this Act aims to narrow the disparity between the State's high income taxes and the economic reality of Hawaii's high cost of living.

Since 1983, the tax review commission has consistently recommended that the standard deduction be increased to assure the State's tax structure provides financial equity to the poor and to reflect the economic realities of living in Hawaii. The State's present standard deduction of \$4,000 for joint filers is markedly lower than the 2005 federal standard deduction of \$10,000. This Act accomplishes meaningful tax relief for low and moderate-income families by making the necessary amendments to the tax laws.

SECTION 2. Section 235-2.4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Section 63 (with respect to taxable income defined) of the Internal Revenue Code shall be operative for the purposes of this chapter, except that the standard deduction amount in section 63(c) of the Internal Revenue Code shall instead mean:

- (1) [~~\$4,000~~] \$7,500 in the case of:
 - (A) A joint return as provided by section 235-93; or
 - (B) A surviving spouse (as defined in section 2(a) of the Internal Revenue Code);
- (2) [~~\$2,920~~] \$5,475 in the case of a head of household (as defined in section 2(b) of the Internal Revenue Code);
- (3) [~~\$2,000~~] \$3,750 in the case of an individual who is not married and who is not a surviving spouse or head of household; or
- (4) [~~\$2,000~~] \$3,750 in the case of a married individual filing a separate return.

Section 63(c)(4) shall not be operative in this State. Section 63(c)(5) shall be operative, except that the limitation on basic standard deduction in the case of certain dependents shall be the greater of \$500 or such individual's earned income. Section 63(f) shall not be operative in this State.

The standard deduction amount for nonresidents shall be calculated pursuant to section 235-5."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval and shall apply to taxable years beginning after December 31, 2006."

Representative Finnegan moved that Floor Amendment No. 7 be adopted, seconded by Representative Meyer.

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

"Thank you, Mr. Speaker. I think we have seen a lot of articles recently in the paper, people saying that this is the time to do some tax reform and our taxpayers are pretty well beleaguered with high costs, high taxes, high property taxes, and we have somewhere in the neighborhood of a \$700 million dollar surplus.

"Our amendment would ask for increasing the standard deduction to 75% of what the federal deduction is. This would cost the State somewhere in lost revenue of about \$30 million, but would give a great deal of tax relief to the largest number of people. We are one of the worst states for taxing the poor and that's one reason why we are introducing this amendment. While the EITC, which is moving along, does help a lot of people, it doesn't come anywhere close to the numbers that the increased standard deduction would. It's such a major thing. People really need tax relief and this is one way to get it to the most people."

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

"Just quickly, in favor of the amendment. I just want to remind everyone that as the Floor Leader mentioned, the GET is a very regressive tax and at one point, when it was instituted, there was, to balance the tax, there was the food tax credit that was instituted, so this is not a new tax. This existed until, let's say about 10 to 12 years ago, and we collapsed this tax in order to capture more money. Some of you may have been around. Most of you were not, but that's when we were scooping \$250 million out of the Employees' Retirement Fund, we were taking \$150 million out of the Highway Fund just into the general fund, and at the time we collapsed several tax credits and this food tax credit was one of them.

"This is the one that helps the most unfortunate, the poorest people in our community because they spend most of their income on items taxable by the general excise tax, which is food, rent and medical services. So, I really wish that you would vote for this amendment if you care about helping those who are not rich. Thank you very much."

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

"Mr. Speaker, I rise in support of the amendment. Mr. Speaker, a rising tide lifts all boats, especially when yours is made out of cement. Hawaii and Alabama are on the bottom rung of the taxation of the poor. That's embarrassing. We should all be embarrassed at that. This is a bill that gets us really fast to the top. Thirty plus million dollars for all those people who are having a hard time making it in Hawaii. It makes a lot of sense. It's quicker. It's not something that's going to be slower unless, generous as the bill is, if this amendment does not pass it will so indicate.

"But this is something that I would hope before this body adjourns, either in this Session or the next, we would address this. Rather than give lip service to the poor, we give them the substance of which they need. Otherwise, we shouldn't be crying every time we put in a legislative package, or Majority or Minority package. We have to help the poor, and then we leave this place and we don't deliver. This amendment is one opportunity to do that. We can put our money where our mouth is. Thank you, Mr. Speaker."

Representative Meyer rose to respond, stating:

"Thank you, Mr. Speaker. I just wanted to point out that since 1983, the Tax Review Commission has consistently recommended that the standard deduction be increased to ensure the State's tax structure provides financial equity to the poor and to reflect the economic realities of living in Hawaii. By raising the standard deduction, we could take a whole lot of people off the tax rolls, and people that are paying taxes now would not have to pay. Sounds like a great idea. Thank you."

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

"I rise in strong opposition to this floor amendment. Mr. Speaker, just so people understand, this floor amendment would remove all of the elements of the food credit and substitute it with the standard deduction amounts to 75% of the federal amounts. For those who weren't here last year, the Legislature did increase the standard deduction by 40% of the federal standard amount and we also decreased the income tax rates for a total of about \$60 million that went back into Hawaii's taxpayer's pockets, just shy of a year ago.

"The provisions of this floor amendment will have a fiscal impact on the State treasury of about \$30 million this year, Mr. Speaker. But Members, keep in mind and remember that since Opening Day, the Governor has submitted a total of seven Governor's messages and that seven messages between February 14 and March 30 that increased spending in our budget. We only had the opportunity to consider two of them before the First Cross and the Budget Decking. Mr. Speaker, in total the seven Governor's messages add about \$114 million more in spending in the budget. This amount, Mr. Speaker, the Governor proposes to spend \$40 million from the general fund.

"And let's not forget, Mr. Speaker, that the Governor did submit several messages for further emergency appropriations. In fact, this morning we passed out several of them. Those are all additional unaccounted-for request.

"And, finally, Mr. Speaker, we should remember that the Governor's balance of the biennium inches down to about \$44 million. Mr. Speaker, something has to give. We should also keep in mind that the Governor is still in the middle of collective bargaining. She still has the teachers ..."

Representative Meyer rose, stating:

"Mr. Speaker, I don't think anything about the budget is ... We're not looking at the budget now. What we're looking at is the amendment. Will the speaker just stick to the amendment?"

The Chair responded, stating:

"The amendment is addressing the overall financial plan of the State of Hawaii, which is also addressing the budget. You all recognize that. Whatever impact it has to the general fund, it affects the people of the State of Hawaii, also. Please proceed Representative Marcus Oshiro."

Representative M. Oshiro continued, stating:

"Thank you, Mr. Speaker. I thank the Minority Floor Leader for making my point. This has to consider the budget. For example, Mr.

Speaker, last week the Governor just settled with the HGEA and that drops in another cost element of about \$183 million. Again, something has to give, Mr. Speaker. The Governor is still negotiating with teachers, nurses, prison guards. Something has to give.

"The Committee on Finance passed out about over a billion dollars in request in many House bills. Something has to give. Mr. Speaker, at the end of the day the Legislature will have to make some tough choices and balance the budget. It is premature at this point to set any amount for the additional standard deduction increase. Even the Governor is asking us to spend more money. Mr. Speaker, there is no free lunch. And if it sounds too good to be true, it probably isn't. Thank you."

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

"Thank you, Mr. Speaker. In support of the amendment. Mr. Speaker, if we could only think of standard deduction as, say, one of other programs or a new program, a government program that we passed out, then maybe this would have a chance of just actually moving along a little bit more forward along the process because it is very similar to establishing like another government program, except for investing money back into the pockets. Letting them keep more of the money that they earned, which in essence helps everybody.

"Mr. Speaker, we have exactly like what the Finance Chair has stated. We passed out many things with high price tags and we say it's a work in progress. Hey, let's try and do that for the standard deduction as well. Let's try and use that as a part of this equation, of this whole financial picture.

"The other thing that I would like to just also mention is the six year financial plan. With the six year financial plan, we were actually able to say, 'Hey, the Governor's budget says this.' That's what I would have liked to see, so that we could say the same thing about the different things that are moving through the House and say, 'Hey, how is this compared to our own six year financial plan?' Mr. Speaker, if we can pass out other programs, all this money for other things and say, 'Well, it's going to work out in the end,' why can't we do that with standard deduction? Thank you."

Representative Marumoto rose to respond, stating:

"Thank you. My second time in favor. I thank the Finance Chair for correcting my previous statements, but I still encourage you to vote for this amendment to raise the standard deduction to 75% of the federal level. And after you pass this amendment, at Conference Committee, we should also add back in the food tax credit. I believe that we're passing a lot of bills with blank amounts. We don't know what the tax credit amounts will be. We don't know what the rebate amount will be for the constitutional rebate and so, we don't know what kind of tax relief our people will get. They deserve some. Thank you very much."

Representative Ward rose to respond, stating:

"Mr. Speaker. Second time in favor of the amendment. I was just reflecting on the very interesting role reversal that's taking place. You got the Republicans pleading the plight of the poor and the Democrats saying we don't have the money. I thought that was a very interesting historical contrast because, Mr. Speaker, the statistic has become so severe, that 33% of the people of this State are dependent somehow on either a welfare check or a subsidy or some way not making it either from the federal, State or municipal level on their own.

"We don't have an independent state with independent people. It's got so serious that these Republicans will probably need to continue to plead the plight of the poor until we listen, we say either we pay now or pay later. And we know when the poor don't have the resources to get medical care and the food and sustenance that they

need, we're going to end up paying later, we're going to pay more. It's in prison, it's in education and it's cost effective to do it now, so in case there is an irony in our role reversal, it's because it's practical, it works and it's in the DNA, as the Chair of the Finance Committee used to say. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In opposition to the amendment. The previous speaker mentioned the Republican DNA again. I have to say that there must be something in the water in Washington, D.C. that alters Republican DNA because in 2001, when the current President came into power, the federal debt was \$5.6 trillion and now it's \$8.7, and I think ..."

Representative Meyer rose, stating:

"Mr. Speaker, the speaker is not talking about the amendment. He's gone way far afield."

The Chair responded, stating:

"Your point is well taken. Representative Rhoads, could you confine your remarks to the proposed floor amendment relating to standard deduction."

Representative Rhoads continued, stating:

"They opened the door on that. They're the ones who brought up their own DNA. Not me.

"Speaking directly to the amendment, as a member of Finance, I probably had 60 meetings with people coming in and asking on GIA request. I haven't seen a single project, yet, that I didn't see was meritorious. The ERS is behind by \$5.1 billion. Schools need repairs. There are a whole number of things we have that are a very high priorities for us in the budget. I would support this amendment if there was an offsetting tax increase for the wealthy. If you really care about the poor, then you'll put your money where your mouth is and offset and make it a budget neutral amendment. Mahalo."

Representative Manahan rose in opposition to the proposed floor amendment and asked that the remarks of Representative Rhoads be entered in the Journal as his own, and the Chair "so ordered." (By reference only.)

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

"Mr. Speaker, also in opposition. I just wanted to correct any misimpression that the Democrats from Hawaii are not concerned about the working poor of our State, or the working families of our State. If you look at any number of pieces of legislation we've moved to address that issue. What we are mandated to do is pass a balanced budget, and that's what we are trying to do while addressing the needs of working families, and there are many, many bills that do that. Thank you very much, Mr. Speaker."

The motion that Floor Amendment No. 7, amending S.B. No. 1882, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," be adopted, was put to vote by the Chair and failed to carry, with Representatives Bertram, Cabanilla, Green, McKelvey, Souki, Takamine, Thielen and Tokioka being excused.

(Main Motion)

The motion was put to vote by the Chair and carried, and S.B. No. 1882, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 44 ayes, with Representatives Bertram, Green, McKelvey, Souki, Takamine, Thielen and Tokioka being excused.

At 7:21 o'clock p.m., the Chair noted that S.B. No. 1882, SD 2, HD 1 passed Third Reading.

S.B. No. 148, SD 2, HD 1:

Representative Caldwell moved that S.B. No. 148, SD 2, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

At this time, Representative Finnegan offered Floor Amendment No. 9, amending S.B. No. 148, SD 2, HD 1, as follows:

SECTION 1. Senate Bill No. 148, Senate Draft 2, House Draft 1, is amended by deleting its contents and replacing it with the following language, to read as follows:

"SECTION 1. The legislature finds that article VII, section 6, of the constitution of the state of Hawaii requires the legislature to provide a tax refund or tax credit when certain factors are met. The legislature finds that these factors have been met and that the legislature is constitutionally required to provide a tax credit or tax refund.

The purpose of this Act is to provide for an income tax credit of \$100 multiplied by the number of the taxpayer's dependents to every resident individual taxpayer of the State with an adjusted gross income, as defined by the Internal

Revenue Code, below a certain amount, and an income tax credit of \$1 multiplied by the number of the taxpayer's dependents to every resident individual taxpayer of the State with an adjusted gross income, as determined by the Internal Revenue Code, above a certain amount, to satisfy the constitutionally mandated requirements.

SECTION 2. (a) There shall be paid, as early as December 1, 2007, or as soon thereafter as reasonably practicable, to each resident individual taxpayer who files an individual income tax return for the taxable year 2005, and who is not claimed or is not otherwise eligible to be claimed as a dependent by another taxpayer for federal or Hawaii state individual income tax purposes, a general income tax credit of \$100, with the following filing status and federal adjusted gross income:

<u>Filing status</u>	<u>Federal adjusted gross income</u>
Married Filing Jointly	100,000 or less
Head of Household	\$75,000 or less
Single, Married Filing Separately	\$50,000 or less

There shall be allowed to each resident individual taxpayer who files an individual income tax return for the taxable year 2005, with federal adjusted gross income in excess of the limits described above, and who is not claimed or is not otherwise eligible to be claimed as a dependent by another taxpayer for federal or Hawaii state individual income tax purposes, a general income tax refund of \$1.

Each resident individual taxpayer shall be paid the general income tax credit. In addition, each taxpayer shall be paid an amount equal to the general income tax credit multiplied by each dependent claimed on the taxpayer's 2005 net income tax return; provided that a husband and wife that filed a joint return shall only be entitled to be paid an amount not to exceed the computed refund amount based upon the number of dependents that the husband or wife would have been entitled to claim had the husband or wife filed separately.

Each person to whom the general income tax credit is paid shall have been a resident of the State, as defined in section 235-1, Hawaii Revised Statutes, for at least nine months regardless of whether the qualified resident was physically in the State for nine months.

The general income tax credit shall not be paid to:

- (1) Any person who has been convicted of a felony and who has been committed to prison and has been physically confined for the full taxable year;
 - (2) Any person who would otherwise be eligible to be claimed as a dependent but who has been committed to a youth correctional facility and has resided at the facility for the full taxable year; or
 - (3) Any misdemeanor who has been committed to jail and has been physically confined for the full taxable year.
- (b) The tax credit paid to a resident taxpayer pursuant to this Act shall not be included in the resident taxpayer's gross income.
- (c) This section implements the provisions of article VII, section 6, of the constitution of the State of Hawaii, enacted by the 1978 constitutional convention, which reads as follows:

"DISPOSITION OF EXCESS REVENUES

Section 6. Whenever the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years, the legislature in the next regular session shall provide for a tax refund or tax credit to the taxpayers of the State, as provided by law."

SECTION 3. This Act shall take effect upon its approval."

Representative Finnegan moved that Floor Amendment No. 9 be adopted, seconded by Representative Meyer.

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

"Yes, Mr. Speaker. In strong support of the amendment. Mr. Speaker, the State Constitution requires that taxpayers be given a refund or tax credit when the balance of the general fund exceeds 5% two years in a row. In the last couple of years, we've had a surplus of \$700 million, we've had a surplus of \$400 million.

"Basically, in the last two years, Hawaii's government has made over a billion dollar profit off its people, mainly the poor. Residents of my district, I can talk to you about that. A man just came up to me at church the other day and just said the fees are going up, the taxes are going up, they're taxing the poor the most in Hawaii. When is it going to stop? And, so, I just start imagining this person from my church when he gets his \$1 tax refund in the mail. He only makes about \$24,000 a year. He paid out a lot more. He's having to take out a mortgage on his house just so he can pay his bills. He was a good tax paying citizen his whole life, and now just to pay his bills and the high cost of living in Hawaii, he has to take a mortgage or a reverse mortgage on his home.

"Mr. Speaker, basically, what the bill does now is it changes a larger tax credit that would go back to the people to \$1 and what our amendment does is, for example, if you make \$50,000 or less, instead of \$1, you get \$100. Now, in Hawaii, after taxes, that means you're making about \$30,000 a year, which is not enough to survive. I just don't believe, Mr. Speaker, that government should be in the business of making a profit from its people. And we talk about something's got to give, but is it the poorest who'll have to give? What are we going to give back? And if this person from church who's apparently benefiting from all these working family laws that we're passing is still suffering, and his family is suffering, then, perhaps, we should rethink what we're really passing these days.

"If the newspaper, itself, is saying that we tax the poor the most, then we're obviously not doing a good job of helping the working poor, and maybe we should give to the right people, and that is to the poor and to the middle class. And giving a dollar, Mr. Speaker, it'll buy this pen. Well, actually this is a Cross pen, I'm sorry. It'll buy

this Bic pen. That's not really meaningful to the guy from church who is pleading with me just to help him out to survive."

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

"Mr. Speaker, just short comments. I remember reading in the newspaper in regards to this. Basically, what we're saying is in order to help with this floor amendment, we're basically saying, if you make over \$100,000, even though we know \$100,000 in Hawaii is not that much, if you make over \$100,000, okay, we'll go with the dollar. Okay, we'll try that. But if you make under a hundred thousand and this is not in one income, this is a two income family, you know, and it's \$100 per dependent, you may get for a family of four with two incomes under \$100,000 in income, \$400 in tax credit. It's something that we can do. It's basically addressing people and families that make under \$100,000, Mr. Speaker. This is different than what the Governor has proposed and we're hoping that we will be able to adopt the amendment for more discussion on this issue.

"But, also, Mr. Speaker, I remember reading in an article early on in this Session, where the Majority Leader basically said \$1 would be silly. I can't remember the exact quote, but he said \$1 would be silly. And what are we moving forward in this bill? One dollar."

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

"Mr. Speaker, a couple of points I want to make. In opposition. One, I don't think I ever said a \$1 rebate or credit is silly. I'd like to see where that's stated. Unless we're saying it was going to be done through the mail. That would be silly. It costs more to do that. But I don't think I ever was opposed to a one dollar rebate or credit.

"In fact, Mr. Speaker, we've all seen the *People's Pulse* polls that have been taken and shared with this caucus. It is paid for by the Business Roundtable and PRP Partnership, and in it, it consistently shows in its polls, that the majority of working families in this State, would much better see the surplus plowed back into worthy needs, whether it be education, fixing infrastructure, any number of public work projects and other benefits that we all enjoy and are extremely important in that way. And I think that's what we're talking about here. We're saying, let's plow the money back into other worthy needs instead of giving someone \$100.

"I've already stated that \$100,000 isn't that much, Mr. Speaker. I think if you ask most working families whether they thought a \$100,000 in income was a lot, and they will say yes. And, in fact, someone making \$100,000 would get \$100 back. And those people may belong to a country club. They play a round of golf, they eat at the golf club house afterwards. They spend \$100. It's gone. Let's take that money, let's put it back into our infrastructure, let's upgrade our schools, let's commit to the programs we say we're going to support to all the GIA, to all the CIP. So, Mr. Speaker, we should vote down this amendment. Thank you."

Representative Pine rose to respond, stating:

"I don't think the *People's Pulse* understands some of the people in my district. I can guarantee you that half the people from Campbell High School send their kids to that school who are so poor that their kids have to take these free lunch programs and they're embarrassed about it. I'm sure if I called someone on the phone and said, 'Hey, did you give back money to the people? To Hawaii? For infrastructure?' They'll say, 'Yeah', but they'll go home and then they'll sit down and go, how are we going to pay for food next week. You know, I'm mainly talking about those people.

"And maybe \$100,000, for that other part of the amendment is something that someone's against. I can guarantee you that a family of four that makes that much, they're still sitting down and saying, 'Yeah, let's give back. Let's give back', but they still can't afford to

live here. Taxes, especially property tax has skyrocketed. That's not enough to raise a family of four."

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

"Mr. Speaker, I rise in opposition of this floor amendment. I wasn't going to say anything, but I will be remiss if I didn't point out a couple of things. First, I think most people would agree that for those making \$100,000 a year, that's a lot of money, but maybe the DNA leads someone to believe that's not.

"The second point I need to make, Mr. Speaker, is that I don't take to heart, as a gospel truth, anything I read in the newspapers, and I'm sure that most of my constituents would also agree with that.

"And the third point I think, Mr. Speaker, the reason why I'm standing in opposition to this measure, I think the Members, especially those who are proponents of it, should understand what they're offering before this body, so they don't embarrass themselves by voting for this amendment. You see, Mr. Speaker, when I look through this draft and have the analysts look through it again and double-check it, what this bill will do is, it will provide a credit of a \$100 to the so-called 'poor people'. It will give the 'rich guys' a tax refund of \$1. That's the way it's drafted and that's the way it's going to be played out. And, so, that's another reason why I will be voting against this amendment."

Representative Meyer rose to respond, stating:

"Thank you, Mr. Speaker. I'm still very much in support of it. I just wanted to make a correction. I think the Chairman of Finance talked about a person making \$100,000. We're saying it's not a person. It's a couple people filing jointly. It's up to a \$100,000, but it's all those people between \$15,000 up to \$100,000. And it's not that we'd rather take that money for GIA. We've already taken that money. That's why we have a surplus. We've overtaxed the people of Hawaii, and the people, according to our Constitution, are to get something back. But it doesn't seem to be a recognition in this Chamber that people were overtaxed, and now, with the increase and the excise tax gone up 12.5% starting January 1, these very people are getting taxed more and more.

"So, this is just trying to do what the Constitution envisioned. I don't think a dollar is anything. I would have trouble with mailing a dollar back. But the major thrust of our amendment is the \$100 per person. For a family of four, that's \$400, and that would be something that would be substantial enough that people would realize they're actually getting some of their tax dollars back. Thank you."

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

"Thank you, Mr. Speaker. I rise in opposition to the proposed amendment. Mr. Speaker, I agree that Hawaii taxpayers deserve some level of relief. I disagree that a hundred dollars for every taxpayer is the correct route to go. If the State is going to give tax relief to people, shouldn't that relief be given to the people who need it the most?

"The Minority argues that everyone deserves a hundred bucks in their pocket, but you have to ask what type of people. Their position is to provide some relief to as many taxpayers as possible, providing EITC or cutting taxes on food and medicine. It's targeted to low income taxpayers, particularly, families with children. It gives more significant relief to this group than is possible through a one time give away. The hand out does very little to get people out of poverty since low income families currently bear more than their fair share of the State tax burden here in Hawaii. It is totally appropriate that tax relief be targeted to them. Thank you, Mr. Speaker."

The motion that Floor Amendment No. 9, amending S.B. No. 148, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INCOME TAX CREDIT," be adopted, was put to vote by the Chair and failed to carry, with Representatives Bertram, Green, McKelvey, Nakasone, Souki, Takamine, Thielen, Tokioka and Yamane being excused.

(Main Motion)

The motion was put to vote by the Chair and carried, and S.B. No. 148, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INCOME TAX CREDIT," passed Third Reading by a vote of 43 ayes, with Representatives Bertram, Green, McKelvey, Nakasone, Souki, Takamine, Thielen and Tokioka being excused.

At 7:34 o'clock p.m., the Chair noted that S.B. No. 148, SD 2, HD 1 passed Third Reading.

At 7:34 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 7:37 o'clock p.m.

ANNOUNCEMENTS

Representative Ward: "Mr. Speaker, I'm proud to announce the results are just in from the Pacific's newest democracy, East Timor. They have just completed their first election since independence from Indonesia in May 2002.

"Of great interest to Hawaii is that the likely choice for president will be Nobel Laureate winner, Ramos-Horta who's a great friend of this body. In fact, he was given a commendation in 1998 from this body and one who was a great friend of the Peace Corp while I was there as the country director. I'm sure we're going to see him again and I will keep you posted. Thank you."

Speaker Say: "Members of the House, if you look on pages A through I of your Order of the Day, we have a lot of hearings tomorrow, so please be aware of your public hearing notices."

Representative Chong for the Committee on Water, Land, Ocean Resources and Hawaiian Affairs requested a waiver of the 48-hour advanced notice requirement to hear HCR No.196 and its companion HR No. 154, Requesting the Office of Hawaiian Affairs to Report on the Status of Waimea Valley, be heard tomorrow at 10:20 a.m., in Conference Room 312, and the Chair "so ordered."

Representative Ching: "Thank you, Mr. Speaker. Mr. Speaker, a former long-time federal Prosecutor here who served as the head of the State Department of Public Safety. He was helping the legal system in Malawi and Southeast Africa. And this federal Prosecutor also worked in the U.S. Attorneys office.

"His most famous case was prosecuting Ronald Rewald, who was in prison for defrauding victims of millions of dollars through the bogus firm of Bishop Baldwin Rewald. And he was appointed by Governor Lingle to head the Department of Public Safety. He resigned the following year to return to Bosnia and helped that nation's legal system and to establish a judicial system in Bosnia, Herzegovina. He died this week in a car crash in Africa.

"Many of us knew John Peyton as the head of the State Department of Public Safety. I think he served with dignity, and he was a good man, as I've known him. And I'd just like to request a moment of silence at the appropriate time."

At this time, the House of Representatives stood for a moment of silence in memory for former Department of Public Safety director, Mr. John Peyton, Jr.

Representative Yamashita: "Thank you, Mr. Speaker. I'd like to announce that my office will be sponsoring the Second Annual Bizarre Bazaar for the Hawaii Foodbank, with proceeds going to that, tomorrow from 11:00 a.m. to 1:00 p.m. I just noticed that on my Palm. I don't know what room it's in, but the information is on the elevator door, so you can look at there. Thank you."

ADJOURNMENT

At 7:40 o'clock p.m. on motion by Representative B. Oshiro, seconded by Representative Meyer and carried, the House of Representatives adjourned until 7:00 o'clock p.m., Thursday, April 12, 2007. (Representatives Bertram, Green, McKelvey, Nakasone, Saiki, Souki, Takamine, Thielen and Tokioka excused.)

HOUSE COMMUNICATION

House Communication dated April 10, 2007, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has disagreed to the amendments proposed by the Senate to the following House bills:

H.B. No. 15, H.D. 2, S.D. 2
H.B. No. 18, H.D. 1, S.D. 2
H.B. No. 24, H.D. 1, S.D. 2
H.B. No. 119, S.D. 1
H.B. No. 149, H.D. 2, S.D. 2
H.B. No. 513, S.D. 1,
H.B. No. 567, H.D. 1, S.D. 2
H.B. No. 575, H.D. 1, S.D. 2
H.B. No. 598, H.D. 1, S.D. 1
H.B. No. 767, H.D. 2, S.D. 2
H.B. No. 869, H.D. 1, S.D. 2,
H.B. No. 1005, H.D. 2, S.D. 1
H.B. No. 1103, S.D. 1
H.B. No. 1207, S.D. 1
H.B. No. 1227, H.D. 1, S.D. 1
H.B. No. 1289, H.D. 2, S.D. 3
H.B. No. 1338, H.D. 2, S.D. 1
H.B. No. 1372, H.D. 1, S.D. 1
H.B. No. 1403, H.D. 2, S.D. 1
H.B. No. 1452, H.D. 1, S.D. 1
H.B. No. 1477, H.D. 2, S.D. 2
H.B. No. 1529, H.D. 2, S.D. 2
H.B. No. 1931, S.D. 1