

FORTY-SIXTH DAY

Tuesday, April 8, 2008

The House of Representatives of the Twenty-Fourth Legislature of the State of Hawaii, Regular Session of 2008, convened at 9:10 o'clock a.m., with the Speaker presiding.

The invocation was delivered by Representative Jerry L. Chang, after which the Roll was called showing all members present with the exception of Representatives Awana, Nakasone, Sagum, Shimabukuro and Waters, who were excused.

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. 290 and 291) were received and announced by the Clerk and were placed on file:

Gov. Msg. No. 290, informing the House that on April 4, 2008, the following bill was signed into law:

H.B. No. 2138, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAREGIVER RECOGNITION DAY." (ACT 006)

Gov. Msg. No. 291, informing the House that on April 4, 2008, the following bill was signed into law:

H.B. No. 3080, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROPERTY OF PUBLIC UTILITIES." (ACT 007)

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 442 through 467) were received and announced by the Clerk:

Sen. Com. No. 442, transmitting S.C.R. No. 85, S.D. 2, entitled: "SENATE CONCURRENT RESOLUTION URGING ASSOCIATIONS OF APARTMENT OWNERS AND CONDOMINIUM UNIT OWNERS' ASSOCIATIONS IN THE STATE TO DEVELOP EMERGENCY AND EVACUATION PLANS FOR RESIDENTS, INCLUDING PROVISIONS FOR SENIORS AND RESIDENTS WITH SPECIAL HEALTH NEEDS," which was adopted by the Senate on April 4, 2008.

Sen. Com. No. 443, transmitting S.C.R. No. 105, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION CALLING ON THE DEPARTMENT OF HUMAN SERVICES TO CONVENE A TASK FORCE TO ESTABLISH PROTOCOLS AND TRAINING PROGRAMS FOR FIRST RESPONDERS IN CHILD PROTECTIVE AWARENESS SKILLS," which was adopted by the Senate on April 4, 2008.

Sen. Com. No. 444, transmitting S.C.R. No. 119, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE BOARD OF LAND AND NATURAL RESOURCES TO LEASE APPROXIMATELY 13.2 ACRES OF STATE-OWNED PUBLIC LAND NEAR KE'EHU LAGOON," which was adopted by the Senate on April 4, 2008.

Sen. Com. No. 445, transmitting S.C.R. No. 125, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF PUBLIC SAFETY TO RESEARCH AND STUDY EARLY PAROLE ELIGIBILITY PROGRAMS THAT REDUCE THE MINIMUM PERIOD OF TIME THAT HAWAII

INMATES MUST WAIT TO BECOME ELIGIBLE FOR PAROLE," which was adopted by the Senate on April 4, 2008.

Sen. Com. No. 446, transmitting S.C.R. No. 153, entitled: "SENATE CONCURRENT RESOLUTION SUPPORTING THE "DIVIDED WE FAIL" CAMPAIGN," which was adopted by the Senate on April 4, 2008.

Sen. Com. No. 447, transmitting S.C.R. No. 204, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE NATIONAL DISASTER PREPAREDNESS TRAINING CENTER TO DEVELOP A PROGRAM FOR PRIVATE, GOVERNMENTAL, AND NON-PROFIT ENTITIES WITH AN EMPHASIS ON AT-RISK COMMUNITIES," which was adopted by the Senate on April 4, 2008.

Sen. Com. No. 448, transmitting S.C.R. No. 222, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING STATE DEPARTMENTS TO CONVERT EXEMPT EMPLOYEES TO CIVIL SERVICE IN ACCORDANCE WITH ACT 253, SESSION LAWS OF HAWAII 2000, AND ACT 300, SESSION LAWS OF HAWAII 2006," which was adopted by the Senate on April 4, 2008.

Sen. Com. No. 449, transmitting S.C.R. No. 225, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION ACKNOWLEDGING THE WORK OF THE STATE FOUNDATION ON CULTURE AND THE ARTS IN SUPPORTING ARTS AND CULTURE IN HAWAII, AND REQUESTING THAT AS AGENCIES MOVE FROM THE NO. 1 CAPITOL DISTRICT BUILDING, THE VACATED SPACE SHALL BE ASSIGNED TO THE STATE FOUNDATION ON CULTURE AND THE ARTS AND THE STATE ART MUSEUM," which was adopted by the Senate on April 4, 2008.

Sen. Com. No. 450, transmitting H.C.R. No. 111, H.D. 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING HAWAII'S CONGRESSIONAL DELEGATION TO SUPPORT LEGISLATIVE INCENTIVES FOR PUBLIC HOUSING TENANTS TO TRANSITION INTO PERMANENT HOUSING," which was adopted by the Senate on April 4, 2008.

Sen. Com. No. 451, transmitting H.B. No. 2441, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," which passed Third Reading in the Senate on April 4, 2008.

Sen. Com. No. 452, transmitting H.B. No. 2696, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF THE JUDICIARY HISTORY CENTER," which passed Third Reading in the Senate on April 4, 2008.

Sen. Com. No. 453, transmitting H.B. No. 2062, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO LONG-TERM CARE," which passed Third Reading in the Senate on April 4, 2008.

Sen. Com. No. 454, transmitting H.B. No. 2163, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COMPTROLLER SUPERVISION OF ACCOUNTS," which passed Third Reading in the Senate on April 4, 2008.

Sen. Com. No. 455, transmitting H.B. No. 2254, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BANKS AND FINANCIAL INSTITUTIONS," which passed Third Reading in the Senate on April 4, 2008.

Sen. Com. No. 456, transmitting H.B. No. 2306, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAXATION," which passed Third Reading in the Senate on April 4, 2008.

Sen. Com. No. 457, transmitting H.B. No. 2326, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGES," which passed Third Reading in the Senate on April 4, 2008.

Sen. Com. No. 458, transmitting H.B. No. 2366, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ORGAN DONOR REGISTRY," which passed Third Reading in the Senate on April 4, 2008.

Sen. Com. No. 459, transmitting H.B. No. 2517, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INVASIVE SPECIES," which passed Third Reading in the Senate on April 4, 2008.

Sen. Com. No. 460, transmitting H.B. No. 2559, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM UNCLAIMED PROPERTY ACT," which passed Third Reading in the Senate on April 4, 2008.

Sen. Com. No. 461, transmitting H.B. No. 2675, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL MARIJUANA," which passed Third Reading in the Senate on April 4, 2008.

Sen. Com. No. 462, transmitting H.B. No. 2697, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE INTERMEDIATE APPELLATE COURT," which passed Third Reading in the Senate on April 4, 2008.

Sen. Com. No. 463, transmitting H.B. No. 2730, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LEGAL REQUIREMENTS FOR NEIGHBORHOOD BOARD MEETINGS," which passed Third Reading in the Senate on April 4, 2008.

Sen. Com. No. 464, transmitting H.B. No. 2761, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WOMEN'S HEALTH," which passed Third Reading in the Senate on April 4, 2008.

Sen. Com. No. 465, transmitting H.B. No. 2763, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE CHILDREN OF INCARCERATED PARENTS TASK FORCE," which passed Third Reading in the Senate on April 4, 2008.

Sen. Com. No. 466, transmitting H.B. No. 2920, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FRAUD PREVENTION," which passed Third Reading in the Senate on April 4, 2008.

Sen. Com. No. 467, transmitting H.B. No. 3175, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COMMERCIAL MARINE FISHING REPORTS," which passed Third Reading in the Senate on April 4, 2008.

Representative Caldwell moved to disagree to the amendments made by the Senate to the following House bills, seconded by Representative B. Oshiro and carried: (Representatives Nakasone, Sagum, Shimabukuro and Waters were excused.)

H.B. No. 2062, H.D. 1, S.D. 2
 H.B. No. 2163, H.D. 2, S.D. 1
 H.B. No. 2254, H.D. 2, S.D. 1
 H.B. No. 2306, H.D. 2, S.D. 2
 H.B. No. 2326, H.D. 2, S.D. 1
 H.B. No. 2366, S.D. 1
 H.B. No. 2517, H.D. 1, S.D. 1
 H.B. No. 2559, H.D. 2, S.D. 1
 H.B. No. 2675, H.D. 2, S.D. 1
 H.B. No. 2697, H.D. 1, S.D. 1
 H.B. No. 2730, H.D. 1, S.D. 1
 H.B. No. 2761, H.D. 1, S.D. 1
 H.B. No. 2763, H.D. 1, S.D. 1
 H.B. No. 2920, S.D. 1

H.B. No. 3175, H.D. 1, S.D. 1

INTRODUCTION

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

Representative Caldwell introduced 5th grade students from Punahou School; their teachers, Ms. Carriann Quinn and Ms. Angela Church; and chaperones, Mrs. Julina Abcede and Ms. Diane Taira.

ORDER OF THE DAY

COMMITTEE ASSIGNMENT

The following concurrent resolution was referred to committee by the Speaker:

S.C.R. No.

Referred to:

134, SD2	Jointly to the Committee on Education and the Committee on Health, then to the Committee on Finance
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ANNOUNCEMENT

Representative Souki, for the Committee on Transportation, requested a waiver of the 48-hour notice requirement to hear HCR 105, HD 1, on Wednesday at 9:00 a.m. in Conference Room 309, and the Chair "so ordered."

Representative Souki: "This has to do with allowing the State of Hawaii to regulate the airline industry, and requesting the Congress to provide the enabling legislation. Thank you, very much."

At this time, the Chair announced:

"Members of the House, before we move to the Consent Calendar, are there any Members of the House who would like to disclose their potential conflicts of interest at this point in time?"

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

"Thank you, Mr. Speaker. On all bills pertaining to important agricultural lands or agricultural land jurisdiction, I live on an agricultural lot. Thank you," and the Chair ruled, "no conflict."

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

"Thank you, Mr. Speaker. On all bills relating to health, specifically the Hawaii Health Systems Corporation, I'm a contracted emergency room doctor for them. Thank you, Mr. Speaker," and the Chair ruled, "no conflict."

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

"Thank you very much, Mr. Speaker. On S.B. 3009, Relating to Money Transmitters, I have a potential conflict. My godson is a money transmitter, and my best friend is also a money transmitter. Thank you very much," and the Chair ruled, "no conflict."

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

"Thank you, Mr. Speaker. My wife works part-time at HHSC."

The Chair then stated:

"I believe that measure will be on the Regular Calendar so at that point, you may disclose your potential conflict."

Representative Mizuno: "Thank you for the clarification. Thank you."

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

"Thank you, Mr. Speaker. Mr. Speaker on S.B. 2961, the Claims Against the State, the firm that I work for has a claim in this bill. Thank you," and the Chair ruled, "no conflict."

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

"Thank you, Mr. Speaker. On Senate Bill 3174, which is relating to affordable housing and funding for self-help housing, I may have a conflict of interest. I'm the President of the Self-Help Housing Corporation of Hawaii. Thank you," and the Chair ruled, "no conflict."

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

"Mr. Speaker, I am requesting a potential conflict ruling on S.B. 3068, which is making an emergency appropriation for the Department of Health for the Adult Mental Health Division. My wife is on the Board of Directors of Mental Health Kokua, which is one of the major services providers. Thank you," and the Chair ruled, "no conflict."

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

"Mr. Speaker, on any of the bills relating to veterans or homelessness, I may have a conflict. I work at a homeless veteran shelter. Thanks," and the Chair ruled, "no conflict."

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

"Thank you. I request a ruling on two potential conflicts. I own an insurance brokerage firm, and I'm also a member of the Hawaii Army National Guard. Thank you, Mr. Speaker," and the Chair ruled, "no conflict."

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

"Mr. Speaker, I just wanted to disclose that I'm a registered nurse and a member of the Army Reserves. Thank you," and the Chair ruled, "no conflict."

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

"Regarding S.B. 945, my sister did work for me in my office," and the Chair ruled, "no conflict."

SUSPENSION OF RULES

On motion by Representative B. Oshiro, seconded by Representative Meyer and carried, the rules were suspended for the purpose of considering bills on Third Reading on the basis of a modified consent calendar. (Representatives Nakasone, Sagum and Waters were excused.)

CONSENT CALENDAR

UNFINISHED BUSINESS

At this time, the Chair announced:

"Members at this point there will be no discussion as these are items agreed to by this body for placement on the Consent Calendar."

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1634-08) recommending that S.B. No. 2668, 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. 2668, SD 2, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

Representative Finnegan's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support of S.B. 2668, S.D. 2, H.D. 1 which amends the law relating to the Candidate Advisory Council for the Board of Regents of the University of Hawaii

"I am pleased that this legislation retains language relating to the confidentiality of information required by the Regents Candidate Advisory Council. The Candidate Advisory Council testified that some candidates expressed concern about the potential public disclosure of personal information that the Regents Candidate Advisory Council may become aware of during the candidate review process. Because of this, confidentiality language is needed to insure that highly qualified and interested individuals will be willing to be considered as potential regents. 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. 2668, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1635-08) recommending that S.B. No. 2831, 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. 2831, SD 1, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

Representative Lee's written remarks are as follows:

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

"During 2007, various studies and surveys related to Hawaii's aging population and the wants and needs of family caregivers were presented to the Joint Legislative Committee for Family Caregiving (JLCFC). The studies emphasized the importance of conducting additional research, education, and training in forming a family caregiving and "aging in place" support system to address the issues of elderly care in this state, and to avoid more costly and sometimes unavailable alternatives such as institutionalized care.

"A center on aging research and education will recognize the important role of aging in the future of our State and officially establishing a research center focusing on aging at the university level elevating the importance of this issue.

"The JLCFC, in its report to the Legislature, recommended an appropriation for the University of Hawaii Center on Aging Education and Research (UHCARE) because of its expressed commitment to serve as an inclusive, information sharing, interdisciplinary center on aging. The appropriation would allow for additional faculty positions to assist UH CARE in carrying out its

mission of establishing a research, education, and training center on eldercare issues for the benefit of the entire State.

"I urge my colleagues to support this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2831, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII CENTER ON AGING EDUCATION AND RESEARCH," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1636-08) recommending that S.B. No. 2961, 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. 2961, SD 2, HD 2, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS, OR ITS EMPLOYEES," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1637-08) recommending that S.B. No. 3006, 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. 3006, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO BUSINESS REGISTRATION," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1638-08) recommending that S.B. No. 3019, 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. 3019, SD 1, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

Representative Finnegan's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support of S.B. 3019, S.D. 1, H.D. 2 which amends current provisions of the insurance investment statutes. This bill would provide insurers with more flexibility in their investments and would replace current existing law with more current regulatory standards.

"The current insurance law relating to the investments insurers may hold has been in place since the late-1980s and does not reflect the investment opportunities that insurance companies currently have. While it is important to remember that investment restrictions are in place to ensure the viability of insurers, it is also important to recognize that an industry must adapt to the current economic and financial developments so that insureds can be efficiently and effectively served. This bill, by allowing insurance companies to take on investments more aligned with their mainland counterparts, will assist insurance companies in developing in a competitive marketplace.

"However, I do think that the comments of the Attorney General should be heeded. We should reconsider reinserting the language "and one hundred per cent of its ceded reinsurance premium payable" to protect Hawaii policyholders. Oftentimes, insurers buy reinsurance for themselves to protect themselves in cases where there is a catastrophic event and the insurers cannot pay out the claims on their own. In these cases, when the claims are larger than what the insurer can sustain, the reinsurer, not the local insurer, is the entity that actually pays out the claim. Reinsurance, therefore, is a financial liability to the insurance company, but one that benefits insureds.

"If the insurer is not required to retain 100% of the premium payable to the reinsurance company, then it is possible that the Hawaii insured will not be fully protected in the case of a catastrophic event due to non-payment of the premium by the insurer. According to the Attorney General, reinsurance companies, when not paid their premium in full, may choose to either (1) not honor the reinsurance agreement; or (2) reduce the reinsurance recoverable by an insured by the amount of the premium owed to the reinsurance company. Neither of these scenarios are desirable outcomes.

"It is important that this bill address both the needs of the insurance company, as well as the insured. Insurance companies need the flexibility to invest in a way that will allow them to serve more people in a more cost-effective manner. However, that should not be done at the risk of exposing insureds to a reduced (or even non-existent) compensation when an insurable event actually occurs.

"Nonetheless, because a vibrant insurance industry is necessary for the protection of Hawaii insureds, I support this bill. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3019, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1640-08) recommending that S.B. No. 1491, 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. 1491, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1641-08) recommending that S.B. No. 2034, 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. 2034, HD 2, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST OCEANLINX HAWAII LLC," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1642-08) recommending that S.B. No. 2816, 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. 2816, SD 1, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

Representative Finnegan's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support of S.B. 2816, S.D. 1, H.D. 2. This bill requires DLNR to assign priority mooring space to any intra-county ferry service regulated by the PUC that serves the people of Maui County. This legislation will provide for a more reliable service between Maui and Lanai by allowing the intra-island ferry to be given priority to moor at Maalaea Harbor. With the recent closure of Aloha and ATA Airlines, it is important that we make sure our citizens have adequate means to travel between the islands and the mainland. This bill gives our citizens another tool for more efficient travel between the islands of Maui County.

"I do have a concern that if DLNR puts this intra-county ferry at the top of the list without working with those already on the list that it will cause unrest in the Maalaea Harbor.

"Hopefully the introducers of this bill have already discussed this with the community affected. 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. 2816, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INTRA-COUNTY FERRY SERVICE," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1644-08) recommending that S.B. No. 2528, 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. 2528, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE PARKS ON KAUAI," passed Third Reading by a vote of 47 ayes to 1 no, with Representative Finnegan voting no, and Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1646-08) recommending that S.B. No. 3030, 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. 3030, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MIXED MARTIAL ARTS," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1647-08) recommending that S.B. No. 3174, 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. 3174, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

Representative Finnegan's written remark are as follows:

"Thank you Mr. Speaker. I am in strong support of SB 3174, relating to affordable housing. This bill makes meaningful strides to alleviate the lack of housing for low- and moderate-income families. This bill would extend the dedication of 50 percent of the conveyance tax revenues for the Rental Housing Trust Fund ("Fund"). It would also provide for an infusion of \$25 million in G.O. bond funds for the Fund. The Fund is important because it provides equity gap financing for the development and/or preservation of affordable rental housing.

"Self-help housing has been effective in helping low- to moderate-income families become homeowners. The HHFDC has provided land, financing to acquire land, and development assistance to self-help housing organizations statewide to assist them in this mission. Prior to the dedication of the conveyance tax revenues, the Fund was not consistently funded. It is this consistent funding, however, that is critical. On-going funding is necessary for affordable housing.

"The lack of affordable housing touches everyone in our community – from the young children facing homelessness with their parents to the elderly who must make a choice between shelter and medicine. It is for these people that we, as elected officials, must take the long-term view and ensure that there are moneys both now and in the future to fund projects such as self-help housing to ensure that developers have funds available to build affordable housing units.

"The Self Help Housing Corporation of Hawaii has completed 42 projects for 544 low income families on Oahu, Kauai, Maui, and Molokai. These families not only have a home, but they also have a chance at a better life, a chance at the American dream. 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. 3174, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AFFORDABLE HOUSING," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1648-08) recommending that S.B. No. 3190, as amended in HD 1, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 3190, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

Representative Karamatsu's written remarks are as follows:

"I rise in support. The development of clean electricity from a renewable and abundant resource, the sun, at a price lower than the market price and independent from oil price fluctuations will help Hawai'i become more self-sustainable and less reliant on fossil fuels. Sopogy, Inc., specializes in the development, manufacture, and distribution of its proprietary concentrated solar power systems that generate electricity.

"This bill would allow the issuance of \$35,000,000 in special purpose revenue bonds to assist Sopogy, Inc. in its planning, designing, construction, equipping, and operating of a solar farm power plant on the Island of Oahu. I am proud to see this Hawai'i company play a role in developing our renewable energy industry. 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. 3190, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST SOPOGY INC., IN THE DEVELOPMENT OF RENEWABLE ENERGY ON THE ISLAND OF OAHU," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1650-08) recommending that S.B. No. 2986, 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. 2986, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REFUNDABLE RENEWABLE ENERGY TAX CREDIT," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1652-08) recommending that S.B. No. 2652, 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. 2652, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1654-08) recommending that S.B. No. 2041, as amended in HD 1, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 2041, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

Representative Magaoy's written remarks are as follows:

"Mr. Speaker, S.B. 2041 H.D. 1 is of vital importance to our State's most vulnerable residents who are recipients of Medicaid coverage. This bill will ensure that the necessary State funds will be appropriated to match federal funding, thereby guaranteeing that the \$7,500,000 federal Medicaid disproportionate share hospital (DSH) grant for 2008-2009 will be secured.

"The importance of State funding required to match this grant cannot be minimized. The combined federal and State funds will help meet the rising health care costs and provide the quality health care that is so necessary within our communities.

"Thank you, Mr. Speaker. I respectfully request my colleagues to support this important bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2041, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1655-08) recommending that S.B. No. 3074, 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. 3074, SD 1, HD 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," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1657-08) recommending that S.B. No. 3255, 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. 3255, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LONG TERM CARE," passed Third Reading by a vote of 47 ayes to 1 no, with Representative Cabanilla voting no, and Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1660-08) recommending that S.B. No. 644, SD 3, 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. 644, SD 3, HD 3, pass Third Reading, seconded by Representative B. Oshiro.

Representative Finnegan's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition of S.B. 644, S.D. 3, H.D. 3. This measure requires the installation of solar energy devices in new residential single family homes. While requiring the use of solar energy for water heating is laudable, this mandate will merely add to the up-front cost of new residential dwellings, making the purchase for first-time homebuyers even more of a challenge.

"Although I am in favor of becoming more energy efficient and reducing Hawaii's reliance on foreign fossil fuels, this bill would take away consumer choice, something that I believe will hurt our

economy in the future. Consumer choice is the driving force of our economy. Consumer choice is how the market corrects itself. By mandating that all new homes use solar water heating for their water heaters, we are taking away a choice. Solar energy may be the cleanest and most efficient energy sources we have.

"This mandate will also work a detriment to current home buyers. A mandate would effectively eliminate the \$1000 utility rebate and 35% State tax credit for solar water heating systems installed in residential new construction. This would increase the price of a new solar water heating system to a new homeowner by \$2,600. Regulatory requirements state that utility customers who are required to install energy efficient devices are precluded from taking advantage of incentive measures provided under demand side management programs.

"Government does not need to intervene in this way. Mandates should not be the role of government, especially when the government intervention goes beyond its basic role of providing for our public health, safety or welfare. Consideration should be given to the staffing and resources required to monitor and enforce this program, including some type of process to adjudicate situations where there is non-compliance.

"I am also against this bill because if there must be a mandate by the government regarding solar energy, it should be a mandate large enough to make an impact. If the use of solar energy is to be required, then government should require photovoltaic panels, not just water-heating solar panels. I would support a mandate using photovoltaic technology that will make a significant impact on our reliance on fossil fuels. This would also enable the much higher cost of a photovoltaic system to be amortized over the life of a mortgage. The savings from electric bills could very well make up for the increase in the purchase price of the home.

"For these reasons, I am opposed to this bill. Thank you, Mr. Speaker."

Representative Meyer's written remarks are as follows:

"Mr. Speaker, I rise in opposition to this bill.

"This measure would require the installation of solar water heating devices in all new residential single family homes constructed after December 31, 2009. The rising price of oil and gas has made many of us start thinking about how we can reduce our dependence on fossil fuels. The increased costs of electricity will encourage people to go to solar or quick recovery heaters. Hawaii already leads the nation in solar water heating installations.

"I believe that incentives, not government mandates are the way government can encourage certain behavior. When government intervention goes beyond its basic role of providing for our public health, safety and welfare; it has gone too far. Limiting choice in the housing market by adding mandates will increase the costs of building a home, thus increasing the costs and making houses even less affordable than they are now. 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. 644, SD 3, HD 3, entitled: "A BILL FOR AN ACT RELATING TO ENERGY RESOURCES," passed Third Reading by a vote of 44 ayes to 4 noes, with Representatives Cabanilla, Finnegan, Marumoto and Meyer voting no, and with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1661-08) recommending that S.B. No. 3185, 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. 3185, SD 2, HD 1, entitled: "A BILL

FOR AN ACT RELATING TO CANCER," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1664-08) recommending that S.B. No. 2273, 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. 2273, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO DIGITAL MEDIA," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1665-08) recommending that S.B. No. 2433, 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. 2433, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO IOLANI PALACE," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representatives Herkes and Waters, for the Committee on Consumer Protection & Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1669-08) recommending that S.B. No. 3015, 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 Committees was adopted and S.B. No. 3015, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE PATIENTS' BILL OF RIGHTS AND RESPONSIBILITIES ACT," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative Sonson, for the Committee on Labor & Public Employment presented a report (Stand. Com. Rep. No. 1670-08) recommending that S.B. No. 2449, 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. 2449, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1671-08) recommending that S.B. No. 2782, 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. 2782, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

Representative Finnegan's written remarks are as follows:

"Mr. Speaker, I rise in support of Senate Bill 2782 S.D. 2 H.D. 2.

"Mr. Speaker, Senate Bill 2782 SD2 HD2 is created to monitor scrap metal resale and creates a new misdemeanor offense to theft of stainless steel beer kegs or simply beer kegs.

"The theft of beer kegs has become a problem in recent years. Our local wholesaler here in Hawaii has gone from losing 30 beer kegs in 2006 to over 350 beer kegs in 2007. The beer industry loses over 300,000 kegs per year, which equals to \$15 million due to theft and resale of beer kegs. Beer kegs or stainless steel beverages containers

are one hundred percent recyclable; thus making these containers attractive for individuals for redemption into cash at scrap dealerships. Each beer keg can be redeemed for approximately \$150.00 to \$180.00. The cost to the companies is approximately \$50.00 and most beer kegs last for 20 years.

"To aid in the deterrence of criminal activity we have included the theft of stainless steel beverage containers, otherwise known as beer kegs, in laws intended to prevent theft and resale. The passage of this bill will help deter theft and bring the numbers of stolen beer kegs back down to a manageable or non-existent number.

"As a side note, I hope that we tighten up the language in conference committee. Currently there is no difference between a steel coffee cup and a steel beer keg. 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. 2782, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO METAL," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1672-08) recommending that S.B. No. 3092, 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. 3092, SD 1, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

Representative Marumoto's written remarks are as follows:

"I favor this bill that would require the use of only the last four digits of social security numbers for the Bureau of Conveyances, Land Court or on judgments and orders. In these days when identity theft is rampant and damaging, it makes a great deal of sense to prevent the pilfering of SSNs. The use of four numbers coupled with names, addresses and other information, accuracy seems assured.

"However, there was testimony from the consumer Data Industry Association representative that was compelling. In cases where entities are required to loan sometimes a great amount of money, they want to insure that a person is credit worthy and that the use of all nine digits of the SSN gives greater assurance of that person's identity.

"Because it is important to protect individuals from ID theft, I am weighing in on the side of advancing SB 3092."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3092, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SOCIAL SECURITY NUMBER," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1674-08) recommending that S.B. No. 3240, 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. 3240, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE DRIVER'S LICENSE," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1676-08) recommending that S.B. No. 1487, 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. 1487, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

Representative Marumoto's written remarks are as follows:

"Mr. Speaker, I rise in support of SB 1487, but would like to express my concerns regarding an omission in this bill. I am rather disappointed that a hallucinogen called 'salvia divinorum' and 'salvia A' have been deleted from this present draft. Five states have already added it to their controlled substance lists and another 14 states have introduced legislation to ban the possession or sale of Salvia. Hawaii is the 15th state to consider this legislation.

"The substance, salvia, is being smoked by individuals to induce hallucinations, the effects of which are described by its users as similar to mescaline, ketamine or psilocybin. Presently it is for sale legally in specialty or 'head shops'. It is also widely touted on Internet sites aimed at young adults and adolescents. We know that this group is eager to experiment with these types of dangerous hallucinogenic drugs.

"We understand that it was omitted because of lack of a federal 60-day notice, but what is indeed unfortunate is that we must now wait until the 2009 Session to add this to the list of controlled substances. The Narcotics Enforcement Division of the Department of Public Safety is also disappointed because it had wanted to 'get ahead of the curve' and prevent more young people from experimenting with this new drug, Salvia."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1487, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1677-08) recommending that S.B. No. 2094, 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. 2094, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO DRIVER LICENSES," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1679-08) recommending that S.B. No. 2212, 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. 2212, SD 1, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

Representative Finnegan's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support of SB 2212, S.D.1, H.D. 2, relating to crime. Although this bill is no longer worded to strengthen the laws prohibiting sexual exploitation of a minor and certain activities associated with human trafficking, I continue to support this bill because it clarifies the offense of Promotion of Prostitution.

"Prostitution is an activity that affects all parts of Hawaii's society. It not only attacks the very moral fabric of our community, but it also robs us all of the contributions of the men, women, and children, forced into prostitution. We should not forget that many times, prostitution is not merely money-in-exchange-for-sex, but rather exploitation.

"As such, it is not enough to prosecute those who solicit prostitutes, but it is also important to prosecute those who force prostitution onto others. For some, prostitution is not a choice. There are instances where people are forced, coerced, or intimidated into prostitution. Those exerting the wrongful force, coercion, or

intimidation should not be exempt from the law merely because they were not present at the moment of the illegal prostitution act.

"For this reason, I support SB 2212. 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. 2212, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CRIME," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1681-08) recommending that S.B. No. 2900, 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. 2900, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1682-08) recommending that S.B. No. 3050, 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. 3050, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ADULT PROTECTIVE SERVICES," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1685-08) recommending that S.B. No. 2768, 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. 2768, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF REVENUE BONDS TO ASSIST THE MAUI REGION OF THE HAWAII HEALTH SYSTEMS CORPORATION," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1686-08) recommending that S.B. No. 2857, 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. 2857, SD 2, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

Representative Magaoay's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in strong support of SB2857 S.D.2, H.D.1.

"Mr. Speaker, SB2857 S.D.2, H.D.1, will protect the health, safety and rights of clients of home care agencies. Many families who must contract healthcare should be assured that those individuals providing care are properly trained and licensed by the Department of Health, and that the individuals and agencies are held to a high standard of quality care.

"Thank you, Mr. Speaker. I respectfully request my colleagues to support this important bill."

Representative Tsuji's written remarks are as follows:

"This bill seeks to ensure standards of quality for the growing home care industry by requiring licensure of home care agencies by

the Department of Health (DOH) and appropriating funds for a position in DOH to assist with licensure and monitoring of home care agencies.

"Hawaii has a large elderly population and the health care services sector has evolved to respond to consumer demand in the community based provider markets. The elderly and disabled people desire to remain living in their homes.

"Home care agencies are differentiated from home health agencies in that they provide supportive services in the home. Some examples may include among other tasks - personal care services, companion services, social services, etc. All involve direct contact with the elder or disabled individual. Home care agencies are not licensed. The only requirement for operating a home care business in Hawaii is a general excise tax license.

"Ensuring a minimum level of competence for service providers is prudent so as not to compromise consumer safety especially since consumers in these cases are frail and/or elderly. It is our responsibility to assure them of freedom from potential abuse, exploitation, and improper care."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2857, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HOME CARE AGENCIES," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1690-08) recommending that S.B. No. 988, 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. 988, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO PHOTOVOLTAIC ENERGY," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1693-08) recommending that S.B. No. 2262, 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. 2262, SD 1, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

Representative Finnegan's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support of S.B. 2262, S.D. 1, H.D. 2 which extends the sunset date for the Voluntary Employees' Beneficiary Association (VEBA) Trusts Pilot Program one year to July 1, 2010.

"I think this bill is a fair compromise for both supporters and opponents of this bill because it does not repeal the sunset date permanently, but it will give more time to see if the program warrants an extension.

"This bill will also allow for the completion of the comprehensive study required by SCR 178 passed last year that will document and validate the merits of the VEBA Trusts and issue a conclusion to whether an extension beyond the new sunset date is warranted.

"I believe this bill will allow the EUTF and the VEBA Trust to both identify their needs and accomplishments, so when the comprehensive study is completed in the coming months, we the Legislature, will be able to gauge as to whether the VEBA Trust program needs to be continued or incorporated into the EUTF. 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. 2262, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1694-08) recommending that S.B. No. 2150, 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. 2150, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ADULT PROTECTION," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1695-08) recommending that S.B. No. 2083, 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. 2083, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE SUPERVISION OF ADULT OFFENDERS," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1697-08) recommending that S.B. No. 1891, 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. 1891, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1739-08) recommending that S.B. No. 1720, 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. 1720, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS TO ASSIST JACOBY DEVELOPMENT, INC., A PROCESSING ENTERPRISE," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1740-08) recommending that S.B. No. 2151, 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. 2151, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LONG-TERM CARE OMBUDSMAN," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1741-08) recommending that S.B. No. 2157, 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. 2157, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1742-08) recommending that S.B. No. 2396, SD 1, 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. 2396, SD 1, HD 3, entitled: "A BILL FOR AN ACT RELATING TO MENTAL HEALTH," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1743-08) recommending that S.B. No. 2542, 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. 2542, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC HEALTH," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1744-08) recommending that S.B. No. 2830, 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. 2830, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

Representative Magaoay's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in strong support of SB 2830 S.D.2, H.D.2.

"Mr. Speaker, this bill will greatly enhance the Committee on Family Caregiving.

"SB 2830, S.D.2, H.D.2, will further the existence of the Joint Legislative Committee on Family Caregiving by changing the Committee's name to the Joint Legislative Committee on Aging in Place (JLCAP). This change will allow for JLCAP to develop a model for a cash and counseling project. In the State of Hawaii, *kupuna* raising grandchildren and community-based family caregivers have relatively limited resources. SB 2830, S.D.2, H.D.2, will provide necessary services in the areas of volunteers; education and training; financial assistance and incentives; establishes a task force to focus on the needs and issues of grandparents raising grandchildren; appropriates funds to the Kupuna Care Program. SB2830, S.D.2, H.D.2, will provide caregivers and *kupuna* with the invaluable resources they need and deserve.

"Thank you, Mr. Speaker. I respectfully request my colleagues to support this important bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2830, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CAREGIVING," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1746-08) recommending that S.B. No. 3080, 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. 3080, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAII HEALTH SYSTEMS CORPORATION BACKGROUND CHECKS," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1747-08) recommending that S.B. No. 3228, 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. 3228, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ADJUSTING THE ANNUAL PENSIONS OF RETIRED PATIENT EMPLOYEES AT HANSEN'S DISEASE FACILITIES," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1748-08) recommending that S.B. No. 2785, 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. 2785, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DISTRICT COURT JURISDICTION," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1752-08) recommending that S.B. No. 2218, 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. 2218, SD 1, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

Representative Lee's written remarks are as follows:

"Mr. Speaker, I rise in support of SB 2218 regarding Electronic Monitoring.

"The purpose of this bill is to protect victims of domestic violence from convicted offenders who violate temporary restraining orders or protective orders. It appropriates funds to the Judiciary to cover associated costs for offenders who are unable to afford the monitoring device.

"The bill will allow the court to do the following: (1) prohibit contact with the victim by establishing court-defined geographic exclusion zones; and (2) require the offender to wear a global positioning satellite tracking device.

"In January of this year, two domestic violence incidents occurred which ended in brutal murders. The first incident was Jenny Hartsock who was murdered by her husband. She was stabbed multiple times and was left to die outside her apartment with a 14-inch knife protruding from her chest. The second incident was Janel Tupuola who was murdered by her boyfriend. He pursued her while she was driving, crashed into her car, chased her around the car, then bludgeoned her to death using the butt of a rifle.

"These two murders prove that even though the court grants a temporary restraining order or protective order it does not keep women safe from their abuser.

"I recently received a letter from a woman who thanked me for proposing this bill. This woman was in a physically abusive relationship with her ex-boyfriend for over ten years. In December 2002, he beat her so severely that she finally realized he would eventually kill her. This woman took positive steps in mitigating the situation by enrolling in programs at the Family Peace Center. The Center offers programs for adults and children in order to provide peace to Hawaii's families by offering safety, support, empowerment and accountability to survivors, offenders and child witnesses to domestic violence. She chose the Maluhia Victim/Survivor Family Component program that serves survivors of domestic violence. This loving mother chose for her daughter, the Haupoa Family

Component program that works with children who have witnessed domestic violence in the family.

"Although it has been five years since the temporary restraining order was granted, she still has "encounters" with the ex-boyfriend. This woman and her daughter still fear for their safety and as a consequence, have curtailed public outings.

"This woman's story has touched me so much. Now, more than ever, I definitely believe an electronic monitoring device will serve as an additional tool that would assist the court in protecting victims and their children's safety.

"I urge the members to support this bill."

Representative Evans' written remarks are as follows:

"Mr. Speaker, I'm in support, but I have some concerns. My concerns are a result of a hearing that was held in the Public Safety and Military Affairs Committee, which I am the Chair. Our Committee listened to a bill regarding electronic monitoring in lieu of incarceration or for individuals with community-based custody status. I wish to bring to your attention those two concerns discussed in our Committee.

"First, the technology for electronic monitoring is improving, but there are many areas around the State where GPS cannot pick up the signal to determine the location of the individual. Thus, a victim of abuse may become too confident on the monitoring system and stop taking necessary precautions to protect themselves.

"Second, the cost for the individual to wear an electronic monitoring device is estimated at \$25 per day. If one wants to get a warning on their cellular phone that the individual wearing the device is nearby, there is another charge of up to \$25 a day. I'm concerned the cost is too high.

"The technology continues to improve and maybe we are premature in thinking this device will keep someone safe. For these reasons, I'm in support with some concerns."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2218, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ELECTRONIC MONITORING," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1758-08) recommending that S.B. No. 2956, 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. 2956, SD 1, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

Representative Awana's written remarks are as follows:

"Mr. Speaker, I rise in support. This bill will provide an even playing field for these local businesses. Both the Department of Agriculture and the Hawaii Farm Bureau Federation supported this bill in the Finance Concerns.

"With the recent closure of the last dairy on Oahu and only two dairies left in this State, this measure comes at a time when our industry needs all the support they can get. My only regret is that this bill was not passed sooner. Thank you, Mr. Speaker."

Representative Tsuji's written remarks are as follows:

"This Bill ensures the state's dairy producers are paid a price commensurate with the quality of milk they produce. It would establish that 100% of local producers' milk produced within their quota will be used for fluid consumption, rather than for Class II

purposes. The measure also calls for the Department of Agriculture to engage stakeholders of the Hawaii milk production industry in collaborative discussions to establish recommendations for short and long term initiatives. This would play an important role in the revitalization of our state's dairy industry.

"Hawaii's dairy industry is in a critical state. There are only two dairies remaining in the state and this measure would provide much-needed support to a vital industry that is struggling to survive."

Representative Ward's written remarks are as follows:

"Mr. Speaker, thank you for the opportunity to offer my strong support for Senate Bill 2956, which would promote the Hawaiian dairy industry and insure that these producers are paid a price commensurate with the quality of the milk they produce. Senate Bill 2956 will remove the twenty-percent quota limit set for Hawaiian producers and redefine Class I milk as Hawaiian produced fresh milk. This bill provides much needed support for the Hawaiian dairy industry, which has receded to the point of near extinction, by allowing them to produce higher quantities of milk and potentially increasing their market share.

"Mr. Speaker, this bill not only strengthens the Hawaiian milk industry, but it also is a great benefit to all the people in our State, as local consumers will now be able to purchase the freshest milk available in higher quantities. So this bill is a win-win, a good decision for our State, and I offer it my strongest support.

"Thank you for this opportunity to offer my support to 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. 2956, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MILK," passed Third Reading by a vote of 47 ayes to 1 no, with Representative Bertram voting no, and Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1760-08) recommending that S.B. No. 3001, 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. 3001, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ENERGY EFFICIENCY," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1761-08) recommending that S.B. No. 2660, 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. 2660, SD 3, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

Representative Takamine's written remarks are as follows:

"Mr. Speaker, I rise to speak in favor of S.B. 2660, S.D.3 H.D.2.

"Mr. Speaker, we both know that the cost of a college education has shot beyond the financial means of many families in Hawaii. That is why this Legislature has sought to pursue various options to make a college education more affordable for more families. One of those options has been the Hawaii College Savings Program.

"This measure provides a strong financial incentive by creating a maximum deduction against taxable income, for contributions made to the college savings program. Any assistance, *especially financial assistance*, that enables more families to provide a college education to their children moves us in the right direction.

"The experts tell us that if a student earns his or her high school diploma, they can earn up to 1.2 million dollars during their working life. If they acquire an associate's degree from a community college, it raises their earning power to 1.6 million dollars. A college degree will allow a person to earn over 2.1 million dollars over their lifetime.

"Mr. Speaker, it is clear that educational attainment is a critical workforce development issue, and encouraging greater educational attainment is our responsibility. However, we must also invest in our higher educational institutions, so that they can do the best job possible.

"That is why we must question the wisdom of the Governor's refusal to release all of the 18.2 million dollars that was approved by the Legislature for Hawaii Community College. That funding would have gone a long way in providing newer and better opportunities for the many students that are current or future enrollees of Hawaii Community College.

"We know that the community college plays a critical role in providing opportunities to many in our community. Many times it provides a "second chance" to single moms who are trying to make a better life for their families, or ex-offenders who are ready to rebuild their lives. The community college also provides that important bridge for many to move into a four year college experience.

"For way too long we have neglected to invest in the necessary infrastructure at Hawaii Community College. Yet through sheer dedication and determination the faculty and students have been able to rank in the top 20 community colleges in some national comparisons. Probably due to this kind of success, there currently is a shortage of room for students who want to improve their chances at success, by enrolling in Hawaii Community College.

"Mr. Speaker, a college education is an important tool in developing the best educated and best skilled workforce. This bill will take us one step further along that path."

Representative Marumoto's written remarks are as follows:

"Constituents of the 19th House District are not very demanding. They pay taxes – a lot of taxes – State, federal income taxes and property taxes. However, they are very concerned about education. As a middle to high socioeconomic district, residents know that the key to success is through education. They often make too much to qualify for financial aid or need scholarships, and they are not rich enough to shell out college tuition easily.

"After requests to fill potholes, I get queries for tax credits or deductions for private school tuition. Though I see the need for them, I do not think the Legislature would enact such legislation until Hawaii freezes over. The next best benefit would be a State 529 Program that grants deductions for college tuition. After paying private school tuition for lower education, parents are in need of some relief for higher education.

"SB 2660 would help parents cope with the high cost of college and Hawaii taxes and our cost of living."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2660, SD 3, HD 2, entitled: "A BILL FOR AN ACT RELATING TO COLLEGE SAVINGS PROGRAMS," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1763-08) recommending that S.B. No. 3023, 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. 3023, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

Representative Marumoto's written remarks are as follows:

"I am strongly in favor of SB 3023 to keep Hawaii's captive insurance industry healthy and competitive. Allowing the establishment of special purpose financial captive insurance companies would keep us competitive with eight states plus the District of Columbia that already allow these entities.

"It is important that Hawaii captives provide reinsurance to insurers to help share risk. It is also vital that the Legislature retain and provide Hawaii captives the ability and flexibility to match other venues. The growth of our captive companies is a financial success story, and we should not allow any weakening of this healthy and well-regulated industry."

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 3023, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1764-08) recommending that S.B. No. 3171, 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. 3171, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CHARITABLE TRUSTS AND NONPROFIT ORGANIZATIONS," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1766-08) recommending that S.B. No. 1337, 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. 1337, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONTEMPT OF COURT," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1767-08) recommending that S.B. No. 2040, 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. 2040, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CANCER SURVEILLANCE," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1770-08) recommending that S.B. No. 2878, 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. 2878, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EARLY LEARNING," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1771-08) recommending that S.B. No. 3004, 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. 3004, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1772-08) recommending that S.B. No. 3005, 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. 3005, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO FEDERAL TAX QUALIFICATION OF THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

THIRD READING

S.B. No. 2808, SD 2, HD 1:

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, S.B. No. 2808, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL IMPACT STATEMENTS," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

S.B. No. 3068, SD 1, HD 1:

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, S.B. No. 3068, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HEALTH FOR THE ADULT MENTAL HEALTH DIVISION," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

S.B. No. 2838, SD 2, HD 1:

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, S.B. No. 2838, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Waters being excused.

At 9:22 o'clock a.m., the Chair noted that the following bills passed Third Reading:

- S.B. No. 2668, SD 2, HD 1
- S.B. No. 2831, SD 1, HD 1
- S.B. No. 2961, SD 2, HD 2
- S.B. No. 3006, SD 1, HD 2
- S.B. No. 3019, SD 1, HD 2
- S.B. No. 1491, SD 1, HD 2
- S.B. No. 2034, HD 2
- S.B. No. 2816, SD 1, HD 2
- S.B. No. 2528, SD 2, HD 1
- S.B. No. 3030, SD 2, HD 2
- S.B. No. 3174, SD 2, HD 2
- S.B. No. 3190, HD 1
- S.B. No. 2986, SD 2, HD 1
- S.B. No. 2652, SD 2, HD 2
- S.B. No. 2041, HD 1
- S.B. No. 3074, SD 1, HD 1
- S.B. No. 3255, SD 2, HD 2

- S.B. No. 644, SD 3, HD 3
- S.B. No. 3185, SD 2, HD 1
- S.B. No. 2273, SD 2, HD 3
- S.B. No. 2433, SD 2, HD 1
- S.B. No. 3015, SD 2, HD 2
- S.B. No. 2449, SD 2, HD 2
- S.B. No. 2782, SD 2, HD 2
- S.B. No. 3092, SD 1, HD 1
- S.B. No. 3240, SD 1, HD 2
- S.B. No. 1487, SD 2, HD 2
- S.B. No. 2094, SD 2, HD 2
- S.B. No. 2212, SD 1, HD 2
- S.B. No. 2900, SD 1, HD 1
- S.B. No. 3050, SD 1, HD 2
- S.B. No. 2768, SD 2, HD 1
- S.B. No. 2857, SD 2, HD 1
- S.B. No. 988, SD 2, HD 3
- S.B. No. 2262, SD 1, HD 2
- S.B. No. 2150, SD 2, HD 2
- S.B. No. 2083, SD 2, HD 1
- S.B. No. 1891, SD 1, HD 1
- S.B. No. 1720, SD 1, HD 2
- S.B. No. 2151, SD 2, HD 1
- S.B. No. 2157, SD 1, HD 2
- S.B. No. 2396, SD 1, HD 3
- S.B. No. 2542, SD 2, HD 2
- S.B. No. 2830, SD 2, HD 2
- S.B. No. 3080, SD 1, HD 1
- S.B. No. 3228, HD 1
- S.B. No. 2785, SD 1, HD 1
- S.B. No. 2218, SD 1, HD 2
- S.B. No. 2956, SD 1, HD 1
- S.B. No. 3001, SD 2, HD 2
- S.B. No. 2660, SD 3, HD 2
- S.B. No. 3023, SD 2, HD 2
- S.B. No. 3171, SD 2, HD 2
- S.B. No. 1337, HD 1
- S.B. No. 2040, SD 1, HD 2
- S.B. No. 2878, SD 2, HD 2
- S.B. No. 3004, SD 2, HD 2
- S.B. No. 3005, SD 2, HD 2
- S.B. No. 2808, SD 2, HD 1
- S.B. No. 3068, SD 1, HD 1
- S.B. No. 2838, SD 2, HD 1

The Chair then announced:

"Members of the House, I would also like to remind you that you need to let the Clerk know which Senate Bills on the Consent Calendar you will be inserting your written comment on for the Journal. This must be done before the adjournment of today's Floor Session."

At 9:23 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 9:41 o'clock p.m., with Vice Speaker Chong presiding.

ANNOUNCEMENT

Representative M. Oshiro, for the Committee on Finance, requested a waiver of the 48-hour notice requirement to hear the following resolutions on Wednesday, April 9, at 1:00 p.m., Agenda 1A:

HR 71, HD 1, and HCR 62, HD 1, Urging the Board of Education to only Purchase or Lease Large School Buses that have an Operable Seat Belt Assembly at all Designated Seating Positions and Seatbelt Positions at least 24 inches in Height.

Representative M. Oshiro: "The reason for this waiver Mr. Speaker, is that originally this House Resolution was set on the decision making agenda. It is now moved to the hearing agenda, Agenda 1A, and that's the reason for the waiver. Thank you," and the Chair "so ordered."

ORDINARY CALENDAR

UNFINISHED BUSINESS

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1631-08) recommending that S.B. No. 1526, 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. 1526, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO JUDICIARY," passed Third Reading by a vote of 49 ayes, with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1632-08) recommending that S.B. No. 2146, 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. 2146, SD 2, 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 Senate Bill 2146. We heard this bill. We had a House version and now we're voting on the Senate version. This bill was originally enacted into law as Act 198 without the express knowledge or consent of the bedside care nurses.

"The cost is negligible at \$40 every two years. However, the problem the nurses have with it is that the inception of the measure along with its exclusivity, making nurses the sole funding source for the Center for Nursing, that is the thing that they really object to.

"In looking at some testimony from Keith McCloskey, an RN, he's goes into some history that in '02 and '03, the nurses were striking at various hospitals. They had to also fight a takeover of their union by a California nurses union. So they were very busy and also many of them were fired from their jobs after the strike. So it was a very tumultuous time for the nurses, and they were not really present here when we were considering this.

"In testimony, I thought it made sense. They felt that the major beneficiary of this Nurses Center, if they do come up with data and figure out a way to get more people into nursing, it would be the hospitals and the various medical facilities. Yet they are paying nothing in the support of this Center. So it was spotty in Committee hearings. In one Committee hearing, there were nurses that vehemently objected to it, and in other Committee hearings, they were not present.

"But I've seen enough testimony. I've talked to enough of these nurses that have made clear that they don't want this bill to go on and on. And they also question the results. It's been five years. We haven't seen a report with all this data. So for those reasons, I'll be voting no. Thank you, Mr. Speaker."

Representative Evans 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 Evans's written remarks are as follows:

"Mr. Speaker, please note my vote with reservations. I've been consistent in voicing my reluctance to support this effort whenever it has come before the House. Why? Because the administrators of hospitals and the faculty of higher education should be addressing the shortage of nurses and determining what it will take to attract more people into nursing and patient care.

"On another note, I wonder why it is going to take five years to look at the profession, new graduate registered nurses turnover, and best practices for the retention of nurses.

"Finally, it seems wrong to totally count on monies from nurses to fund the Center.

"The only reason I'm casting an aye with reservations is due to the aging of our population and the need for more nurses. We have to find solutions immediately to avoid a crisis in the not so distant future."

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

"Thank you. I request a potential conflict ruling. My husband is a nurse and would be subject to the fees," and the Chair ruled, "no conflict."

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

"Thank you. Can I note my reservations and just add that my reservation is based on the fact that maybe the cost of the Center for Nursing could be shared among the hospitals as suggested by earlier speakers. Thank you."

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

"I would like to disclose a potential conflict. My mother is a nurse," and the Chair ruled, "no conflict."

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

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

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

"Mr. Speaker, I stand in support of Stand. Com. Rep. No. 1632. Thank you. The average age of registered nurses in the State of Hawaii is 49 years, underscoring the need to train additional nurses to replace those who are retiring or will be retiring soon. Hawaii's long-term care facilities also face a shortage of licensed practical nurses. In fact, so important is the nursing profession in Hawaii that our Governor, Governor Lingle states that the demand for registered nurses in Hawaii is expected to increase significantly over the next fifteen years.

"This bill highlights two important issues. First there's an urgency, an urgency to get more nurses and retain our current nursing pool. Second, this bill represents a fundamental established principle that we can all agree upon. We support healthcare and we support those that need it the most: our *kupuna*, our *keiki* and our disabled. Also I wanted to talk about the financial implications of this measure.

"Mr. Speaker the Nursing Center provides its services on a University of Hawaii campus. They're allowed to use these facilities free of charge. This amounts to approximately \$100,000 in in-kind donation for that use per year. In addition, they have secured grants approximately \$400,000. So we're looking at about a half million dollars that this Nursing Center has been able to secure. Without it,

this wouldn't exist. Without it, the Nursing Center wouldn't exist and we wouldn't be able to retain or seek more nurses for the State of Hawaii.

"Finally if I can add to this. Governor Lingle states that nurses are invaluable members of our healthcare system, both for their medical knowledge and compassion. I agree with the Governor. We should support our nurses and we should support this Nursing Center. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In opposition and just some comments please. Mr. Speaker, I think everyone realizes that the nurses are very instrumental to healthcare. We value them as mentioned in the Governor's comments previously mentioned.

"I think the issue here, and we have to raise an eyebrow when the nurses themselves, and the amount that they're paying which is \$40, I think, per year, that they're questioning the worth of this Center. They're saying no. They fully know that that could mean the demise of this particular Center and yet they're speaking out very strongly that they'd be okay with one more year, but not necessarily five.

"Mr. Speaker when those words come from these very same nurses that are on and in hospitals, in doing this hard work, you have to wonder why. And I just wonder if they can see the value in that \$40 per year. Thank you."

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

"First of all, Mr. Speaker I'm rising in support with slight reservations. But I also want to disclose that I'm a registered nurse. So I've paid \$40 every two years, which is \$20 every year. And I think because we have so many problems with nursing being that we are in short supply, that the Center would help us research what needs to be done with the profession so we can move on and be able to analyze and implement what needs to be done with the profession.

"And I agree with the Representative from Kalihi and what he said about nurses. It is true. But I also want to err on the side of reservation. And as noted by my colleague from Makiki, the Center should be partly supported by the private companies also who stand to benefit from a good supply of nurses.

"So I'm voting in support, but I think there is something that we need to go back and work on next year, and that is to incorporate the funding from the private companies as well. Thank you, Mr. Speaker."

Representative Mizuno rose to respond, stating:

"Thank you, Mr. Speaker. Still in support. I just wanted to address some of the concerns by the previous speakers. The \$40 fee is actually for two years, not one year. That \$40 fee paid by those licensed nurses comes out to be \$1.66 per month.

"Second of all, when we are stating nurses, the ones that have some concerns about the measure are actually from the Hawaii Nursing Association. They represent approximately 4,000. If we're looking at the nursing workforce as a whole in the State, they come out to about over 18,000 nurses. So when we use the word 'nurses', we should probably clarify where they're coming from or what organization they represent.

"Again, we have been talking to the new Executive Director, Stuart McKinley and he has interest to work on a measure that would be beneficial and acceptable to his organization. Again, he's the new Executive Director for the Hawaii Nurses Association. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I rise in support of this measure. I just wanted to just briefly describe the course of the reason why the Center for Nursing is here in the first place. About five years ago, if you recall there was a strike, a nursing strike that basically polarized our medical facilities and specifically Queen's right across the street. And it was at that time, after 10 years of trying, that the nurses, the medical facilities, and a whole bunch of other people came together and said, 'You know what? We've got to right this wrong,' and we created the Center for Nursing because the Center for Nursing will play a vital role in determining once and for all, what the staffing needs for these facilities are, the retention concerns and the recruiting issues facing this profession.

"It was the nurses that begged us for 10 years prior to passage, to create this Center and I think that we should heed the advice of the Vice Chair of Health only because I think that the Hawaii Nursing Association has gone through significant transitions in the past couple of years. I think that now, with the new Executive Director, there is some stability in the organization and they can take a look at once again the purpose of the Center for Nursing, and why that Center is going to help them in the future.

"I think if you take a look at this particular measure, and people have already said that it's only \$40 for two years. But I think more importantly, it creates, I think from the standpoint of the nursing profession, an example for the other professions throughout the State.

"I just hope that we can keep this Center alive and allow the Center to do what the bill now says for them to do, not only to study the implications of the nursing occupation longitudinally for five years, but more importantly to look for additional ways to support the Center outside of fees for nurses. I urge the Members to support this measure. Thank you."

Representative Pine rose to respond, stating:

"Just briefly, I just wanted to clarify in my opposition in response to the Vice Chair of Health. I'm very much in support of nurses. I was raised by one all my life and I know the struggles that they go through, and so I support them. And I'm voting no because I support the Hawaii Nurses Association that redirects from having their salaries used to pay administrators for data to be collected, that some of them believe they could collect themselves for free. Thank you."

Representative Meyer rose to respond, stating:

"Thank you, very much. I think what I'm concerned about is when the nurses were there, and have to come to hearings, and they've expressed their unhappiness about being the only funding source for this Center. It's as if we are not listening to them. They objected to us extending the sunset, and on this bill this was to sunset on July of '09 to figure it out. They came to the point where they said, 'Okay, that's all right,' but now we're extending it to 2014 and that's really like a slap in the face for them.

"I hope that perhaps in the Conference process, we can perhaps get somebody else to help fund this and maybe reduce what the nurses have to pay, but make some kind of a compromise, not just discount this whole group of bedside nurses. 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. 2146, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CENTER FOR NURSING," passed Third Reading by a vote of 44 ayes to 5 noes, with Representatives Finnegan, Marumoto, Meyer, Pine and Thielen voting no, and with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1633-08) recommending that S.B. No. 2314, 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. 2314, SD 1, 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 Senate Bill 2314, HD 2. This measure purports to find ways to improve the insurance marketplace by providing an exception to the anti-bundling provisions of the Insurance Code, allowing mutual benefit societies to condition the issuance of renewal health insurance policies on the purchase of dental and vision insurance. What this measure does however, is weaken our State's anti-bundling provisions of Insurance Code at the expense of consumers.

"Ultimately this measure forces consumers to purchase one product as a prerequisite for buying another product that they may not want or need. The main advocate of this bill, the Hawaii Medical Insurance Association argues, and the underlying Finance Committee Report adopts the reasoning, that because federal anti-trust case law allows tying arrangements like those used by HMAA that we as a State should adopt this policy. I would argue that we as a State, pride ourselves on providing protections to our citizens, sometimes more stringent than the federal government, and that we do not simply follow federal case law in crafting policies that are intended to protect Hawaii consumers.

"I urge my colleagues to vote no on this measure and to take a closer look at the testimony, especially the testimony of the State Insurance Commissioner that has been submitted in opposition to this measure in the underlying Committees. 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. 2314, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 45 ayes to 4 noes, with Representatives Belatti, McKelvey, Pine and Thielen voting no, and with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1639-08) recommending that S.B. No. 3257, 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. 3257, SD 3, 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 with reservations. Thank you, Mr. Speaker. I did want to recognize the work of the Department of Human Services under the leadership of its Director for making strides in the past years that she's been Director, in regard to this situation of Medicaid presumptive eligibility, and getting more people that need help onto the rolls of Medicaid.

"My concern with this is basically, we do have some very good processes in place and it's hard to collect from people who are presumed eligible if they end up not being eligible after the fact. It's not like you are able to say, 'Hey you know what? Let's collect from you.' These people, if they are on this list, you would guess it would be difficult from them.

"The other thing is when there is this presumptive eligibility and someone maybe does not qualify, I think its 45 days, that would be money used for people that aren't eligible before, and not able to be used for people who are eligible because money is tight. And so with

those reasons, I will be voting with reservations, but I'd also like to submit written comments. Thank you."

Representative Finnegan's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support with reservations of S.B. 3257, S.D. 3, H.D. 2 which requires the Department of Human Services to provide presumptive eligibility to Medicaid or QUEST eligible waitlisted patients. My reservations stem from testimony provided by the Department of Human Services, stating that mandating presumptive eligibility for waitlisted individuals will not address the problem because the barriers are not Medicaid eligibility related. We should be cautious in subsidizing non-Medicaid waitlisted patients if we don't know how many there are. Presumptive eligibility could cost the State around \$15 million annually. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. On that same measure, I'm going to be voting no. The real sticking point is that only State general funds will be used to pay the providers on the health plans because federal funds cannot be accessed until a person is determined Medicaid eligible. So it's presumptive eligibility, and they're getting medical attention until they get the final determination, only State general funds can be used. And then if they're not eligible, that's it. They pay it. This is going to draw down on our State funds.

"The other thing is that the Department of Human Services has started, just in March 1 of this year, an expedited eligibility that they can actually do in five days. So those are the reasons why I can't support it. Thank you."

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

"I rise in support, Mr. Speaker. Just briefly. This is one tool that we may use to assist the hospitals to move the waitlist of patients off of acute care. It's something that's desperately needed by the hospitals. I realize there's some problems related to it, but I think we ought to consider this bill strongly. Thank you. And written comments in addition."

Representative Lee's written remarks are as follows:

"Mr. Speaker, I speak in support. Some days there are as many as 275 persons in Hawaii waitlisted for transfer to longterm care, taking up bed space in our acute care hospitals. The higher cost of these beds results in a fiscal loss for the hospitals, not to mention a poor quality of life for the patients.

"In 2007, the Legislature adopted SCR198 requesting the Healthcare Association of Hawaii (HAH) to study the waitlist problem. With the aid of a consultant, HAH found that establishing a Medicaid presumptive eligibility process would reduce the period of time patients would be required to stay in acute care.

"The Department of Human Services Eligibility Branch has stated they are beginning a new process whereby eligibility would be determined in five days. Even with this plan, it seems a presumptive eligibility process would help to break the log jam that exists and get waitlisted patients out to community care more quickly. This problem has been around for more than 10 years and needs action from the Legislature.

"In addition, we must address the issues of reimbursement, capacity, government regulations and workforce. If we do not act, hospitals may be forced to close or to turn away acutely ill patients.

"I urge the members support."

Representative Finnegan rose to respond, stating:

"Thank you, Mr. Speaker. Still with reservations. And I just wanted to follow up on that comment and reiterate from the Representative from Kahuku, the Minority Floor Leader, that beginning March 1, 2008, presumptive eligibility is not necessary for hospital acute care patients waitlisted for non-hospital based long-term care services because the Department has just implemented a five-day expedited process determining eligibility for Medicaid applications from hospital waitlisted patients. 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. 3257, SD 3, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MEDICAID PRESUMPTIVE ELIGIBILITY," passed Third Reading by a vote of 47 ayes to 2 noes, with Representatives Marumoto and Meyer voting no, and with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1643-08) recommending that S.B. No. 2394, 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. 2394, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, on Stand. Com. Rep. No. 1643, I'm going to be voting no on this measure. This is a bill we heard in the Finance Committee. I was concerned that the University of Hawaii is the largest science and technology organization in the State of Hawaii, and yet they're not included in this bill.

"The University was not counted in the consideration of this measure. That was troubling to me. The technology master plan, is a much more comprehensive plan that includes various stakeholders, calls for biannual reviews, and will assist the Legislature in maintaining an overall framework to guide the development of science and technology, including the development of new technology parks.

"This bill actually amended an Act we passed in 2007, but which had an appropriation of \$150,000. That was removed and \$400,000 was put in there for a new tech park which was not identified. Where it would be, or exactly who would be operating it. It just seemed like a real vague framework and the fact the University of Hawaii wasn't even part of it, that was troubling to me. Thank you."

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

Representative Finnegan's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support with reservations of S.B. 2394, H.D. 2 which amends Act 150, providing funds to the High Technology Development Corporation (HTDC) to prepare a science and technology master plan for Hawaii and for planning of a technology park. Is this the best use of our resources at this time? We are proposing the allocation of \$400,000 for HTDC to plan for a technology park and to prepare a master plan for the State. Much has been done in this area. I believe the direction and plan is already in place. Enough thinking, it is time to do. 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. 2394, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HIGH TECHNOLOGY," passed Third Reading by a vote of 48 ayes to 1 no, with Representative Meyer voting no, and Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1645-08) recommending that S.B. No. 2843, 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. 2843, SD 2, HD 3, 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 reservations. Mr. Speaker I would be remiss if I didn't point out the folly, or footnote at least, of this particular bill which is about recycling electronic devices. It names just about every electronic device you can imagine, except for those that are on our tables. That is the computer. It doesn't mention computers. This is something that came out in the Finance Committee. For some reason it was not noted and changed, but is something that's really a big flaw and it makes us all look like we're absent-minded in terms of our recycling responsibilities to computers. It says, 'computer printers', but it doesn't say 'computers'. So Mr. Speaker whoever is going to be on the Conference Committee hopefully they'll take full cognizance of that. Thank you."

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

Representative Meyer's written remarks are as follows:

"Mr. Speaker, I rise in opposition to SB 2843 SD2, HD3, Relating to Electronic Device Recycling.

"This measure is redundant in that certain companies and manufacturers have already implemented their own recycling and "take back" programs. Should this measure pass, it may negatively impact these programs which often collect wireless equipment for refurbishing and reuse.

"In addition, the Department of Health has serious concerns about funding and prefers a program that is privately run and does not require the establishment of a new State program.

"If this Legislature insists on performing a task that private industry has apparently been willing and very able to accomplish, the Texas E-waste Law should be used as a model. In that program, manufacturers selling computer equipment implement a recovery plan for recycling devices. Manufacturers pay to carry out their own plans. There is no collection fee and they may select from a variety of options. They then submit reports to the State documenting recycling and reuse efforts.

"Because private industry is doing a more than adequate job at promoting the recycling of electronic products and government will not likely be able to match the efficacy of private industry recycling programs, I oppose SB 2843 SD2, HD3, Relating to Electronic Device Recycling."

Representative Marumoto 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 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. 2843, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO ELECTRONIC DEVICE RECYCLING," passed Third Reading by a vote of 47 ayes to 2 noes, with Representatives Finnegan and Meyer voting no, and with Representatives Nakasone and Sagum being excused.

At 10:07 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1526, SD 2, HD 3
 S.B. No. 2146, SD 2, HD 1
 S.B. No. 2314, SD 1, HD 2
 S.B. No. 3257, SD 3, HD 2
 S.B. No. 2394, HD 2
 S.B. No. 2843, SD 2, HD 3

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1649-08) recommending that S.B. No. 2842, 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. 2842, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

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

"Thank you, Mr. Speaker. On Stand. Com. Report No. 1649, I'll be voting no. My main issue is that the Department of Health already has a program, and I don't think we need to create a new one. 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. 2842, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LIGHTING," passed Third Reading by a vote of 48 ayes to 1 no, with Representative Meyer voting no, and Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1651-08) recommending that S.B. No. 2313, 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. 2313, 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 in regard to Stand. Com. Report No. 1651, I rise Mr. Speaker, with reservations. This bill discontinues the Insurance Division's Insurance existing Fraud Investigations Unit, and establishes a new Insurance Fraud Investigations Branch to prevent, investigate and prosecute insurance fraud in all lines of insurance except workers' comp.

"Mr. Speaker, I realize that this bill or bills like these have had trouble in the past because of the workers' comp issue. And so although I do believe that this is still a good bill without workers' comp, I do have vote with reservations because that's one of the main areas in which I believe, business would like to see fraud investigations take place. Thank you."

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

"In strong support. As far as worker's comp, the biggest cost driver in workers' comp fraud is from business. Thank you."

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:

"Mr. Speaker, I rise in support with reservations on this measure.

"This bill discontinues the Insurance Division's existing Fraud Investigation Unit and establishes a new Insurance Fraud Investigations Branch to prevent, investigate, and prosecute insurance fraud in all lines of insurance except workers' compensation.

"Mr. Speaker, I support the idea of prosecuting people who commit insurance fraud and believe they should be punished. However, I do not understand why we would exempt workers' compensation from being investigated. Workers' compensation is one of the most prosecuted insurance crimes in the country. If we are serious about eliminating insurance fraud in Hawaii, we must allow the Investigative Branch to investigate all types of insurance, including worker's compensation. Thank you."

Representative Marumoto 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. 2313, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 49 ayes, with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1653-08) recommending that S.B. No. 2663, 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. 2663, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"In regard to Stand. Com. Report No. 1653, I am in opposition. Mr. Speaker, this stems out of a disagreement between the Governor and I think the Legislature, in regard to who can send names to the Governor to be considered nominees for the Hawaii Teacher Standards Board. What the Hawaii Teachers Standards Board, of course, does is license teachers and approve teacher preparation programs.

"The issue was that the Governor was also using other organizations to send down and accept proposals. This is what it does, it basically says that the only people that can forward names are any State chapter of national professional organizations that represent teachers or school administrations or the exclusive representative for public school teachers or the exclusive representative for public school administrators and the HAIS, which covers private school teachers. And I believe that everyone has to be a working teacher.

"One of the issues in regard to this is that I think recommendations were made by Hawaii School Charter Network and others. You wouldn't be able to take the PTSA's in regard to actual licensed teachers being able to forward those names to the Governor. I think this really narrows it down. One of the reasons why we have Charter Schools is because they're incubators for doing things a little differently, and to be able to take their recommendations of licensed teachers and be able to use them, I think, would be a positive thing for the Hawaii Teachers Standards Board. By focusing and funneling

it so we just have a few organizations, I think would be a disservice. 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. 2663, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TEACHER STANDARDS BOARD," passed Third Reading by a vote of 47 ayes to 2 noes, with Representatives Finnegan and Meyer voting no, and with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1656-08) recommending that S.B. No. 3076, as amended in HD 1, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 3076, HD 1, 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 reservations regarding the epidemiology bill. Mr. Speaker, over the past years, I've learned a few things about epidemiology. As the Peace Corps Director in East Timor where disease was running rampant, one of my biggest jobs was to protect the lives of my 46 volunteers. Because of our proximity to Indonesia and Vietnam where SARS had been, and where avian flu was spreading, and even though it was only going from animals to human, not human to human, I had to have each of my volunteers given Tami flu, which if the outbreak of avian flu did take place they would inject themselves.

"This bill is similar in the sense that, I myself had a physician's assistant who was in epidemiology. This bill asks for epidemiology in the Department of Health, headed by the imminent Dr. Fukino. Instead of granting the request of Dr. Fukino, this bill says, 'Well, we're going to limit the epidemiology request to two.' Now two would seem to be enough, but it's rather short sighted and myopic in my opinion.

"Our State is visited in one year, by people from literally over a hundred countries. The possibility of SARS, avian flu and other virulent bacteria or viruses is very easily conceivable. The Department of Health needs our support to fully, not half-way, be prepared to do the right thing if and when such an outbreak would take place.

"Mr. Speaker, my request is that the Conference Committee would seriously go back to the original version of this bill, and that is where Dr. Fukino simply wanted to say give me more epidemiologists without specifying it or limiting it to two. Whoever is on the Conference Committee, I think can trust Dr. Fukino's judgment, and from there the original bill should be given serious consideration so we are protected from what otherwise, being isolated in the middle of the Pacific, we're very vulnerable to those very virulent bacteria and diseases. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I'm just voting with reservations. I would just want a broader classification in this bill. It is a good bill and it's a start, but if expanded, it would be better. 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. 3076, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EPIDEMIOLOGISTS," passed Third Reading by a vote of 49 ayes, with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1658-08) recommending that S.B. No. 3009, 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. 3009, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, I rise in strong opposition to this measure. This bill is about money transmitters, and we passed this measure last year. Now the Department is coming back to us asking for four full-time positions, Mr. Speaker.

"There are two things that are said about the State of Hawaii that I've heard repeatedly. One, we are the number two largest government size per capita; and we are anti-small business. Going back to number one, this bill asks for four full-time positions. And the thing that bothers me also with this is that the companies, the big companies that were once affected by this have already got an exemption. Banks, bank holding companies, credit unions, savings and loan associations, all have an exemption, which means the cost of the four full-time positions is now down to 29 members in which 12 of them are local businesses.

"I think that this is imbalanced, skewed and I dare say, scaring the small guy. An increase of fees up to 750 percent. I have never seen that before, Mr. Speaker. Furthermore, that cost will be passed on to the local users for the small people that send money to their loved ones. Those that use this small convenience to send a small amount of money and they will be charged a large fee.

"These four full-time positions are not needed for 29 companies. I can see them combing these businesses with a fine-tooth comb looking for trouble. One of the arguments given to me was that if they are doing right, they don't need to be worried. But yet Mr. Speaker, if you put four people out there, will they sit in their office and do nothing? No, they will be going out there looking for justification for their salaries every month. This is a cost of about \$400,000 a year for those 29 companies.

"Lastly Mr. Speaker, I want to stage my protest again. This bill has something to do with international banks, international currencies, sending money to outside the United States, and dealing with immigrants. It should have been with the Committee on International Affairs. I urge the Members to vote no."

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

"I do have to state my strong opposition to this measure. I know I spoke on Second Reading, and I need to express my opposition again and really explain to the body how I arrived at my decision and coming to the conclusion that this is bad public policy.

"Basically, public policy means a course of action or inaction chosen by us public officials to address a certain issue. We could express this in a body of laws, regulations, or in our decisions as a government. I've developed a test called the Sonson's Public Policy Analysis Machine or SPPAM, and it has four components. First we take a look at the elements of the issue, which is public issue, address the goal we're trying to accomplish, and the tools that we choose to use to the impact this issue, and of course it's effects.

"First, the issue. The issue, why this is before us is because banks are closing accounts of money transmitters. The reason for that is that there is a federal compliance provision that they have to fulfill in which they are in doubt where these monies are coming from, and what is it used for. Locally, that issue is we don't want to take cash because we cannot verify where this money comes from. Imagine one transmitter making it with a revenue stream of \$25 million, and

if it's all in cash you have to wonder when this particular transmitter goes to the bank, the bank goes, 'Uh oh. You know, the Bank Secrecy Act. If it's over \$5,000, we have to report it.' It's extra work. The bank can either charge them more, or hire more people to comply with federal law, or not take it at all.

"Unfortunately, the mainland experience for money transmitters has been pretty bad. If you Google this particular public issue, it's actually on a national level. It's huge in the other states. They're wondering where the monies are coming from, and we know this from these money transmitters, especially from California, New York and these big states. In the discussions in the hearing of this particular measure last year, when we passed the law of regulation in the State of Hawaii, it was the testimony of DFI that said that there are issues such as money laundering that we have to be concerned about. However evidence of money laundering was not before the Committee because they could not provide it. They merely said, 'We have money laundering. We have issues. We have problems like that. The FBI said so.' However the Commissioner was not able to provide any particular evidence for the benefit of those who are concerned.

"I spoke with, and I think this is from a very credible person in the banking industry. I won't say his name, but he does work with a lot of us. It is a local bank called First Hawaiian Bank; the bank that says, 'Yes'. He identified the issue locally as really, if they only didn't bring cash to us, it would not be a problem at all. This issue, if you localize it further and ask the transmitter who is promoting this particular measure, he would say, 'Banks are closing our accounts and they don't tell us why.' Well the reason is because you're bringing in a lot of cash, and making them do a lot of work. The reason is that cash cannot be trusted and that is why you need this law.

"The promoter, one of the money transmitters who is strongly in favor of this particular measure will say, 'I don't want my accounts closed. I'm hoping that with regulation, my accounts will remain open. I'm willing to pay. I don't care what I have to pay. I don't want the banks to close my accounts.' It's true that some banks do close accounts, and they have. American Savings Bank for one, closed accounts. First Hawaiian Bank has not. And other banks have not. This measure does not guarantee that banks will not close accounts. It will not address the issue of banks closing accounts.

"If the issue is banks closing accounts, the best way to fix that would be to use a simple tool, which is to require that people that want money transmitted bring checks. Banks will not have to process these and will not have an issue with the federal law if you only bring checks. So the public policy tool that we use or are using here is over-regulation. It is too much and not necessary."

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

Representative Sonson continued stating:

"Thank you very much, Representative. It is not necessary. It is overkill. And it's an expense to the businesses. And as stated, there used to be hundreds of 'mom and pop' money transmitters in the State of Hawaii. We only have 12, according to the Commissioner. No, we only have 11.

"The reason for this, of course, is because it's very difficult to enter the market now. Licensing fees are up to \$2,000. We were talking about \$40 licensing fees for nurses earlier and that was too much. What about \$2,000? But that is not all. It also includes a \$4,000 auto-fee that is required in order to apply for license and again for re-license. In addition to that there's a cost in examination, which will cost \$7,000 on average. The proponent of this measure, which is a money transmitter said, 'I volunteered for this because I'm so scared you're going to close my account and it's going to cost me \$7,000 to do an examination.'

"Who does this examination, Mr. Speaker? It's not the four people that were mentioned earlier, which are the four people being

requested in this particular measure. These people who are going to make an average of \$79,000 each for a total \$317,000 to employ four more people in our government democracy. It does not include that because the people who are doing the examination, who are charging these license transmitters \$7,000 are bank examiners, who will be paid by, who? To be paid, not by DFI. They're not employed by DFI to do this. Well, they are employed at DFI to do this of course, but the fees are paid for by the money transmitter.

"What it boils down to Mr. Speaker, is that we have a public policy that is anti-business in particular. It increases our government bureaucracy. It is a measure that's flawed in such a way that it does not fulfill the goal which is to not close accounts. And certainly it doesn't do a service to the community who are benefiting from the money transmitters. The benefit Mr. Speaker, is that it used to be before we have regulations that a person working in Hawaii would be able to send money to their loved ones.

"If I may, I'll use the country, the Philippines, because it's very common here. They send money to their loved ones in the Philippines to support them, whether they're in school, whether they are sick. They send money to them very efficiently and very cost effectively. The average cost to send money Mr. Speaker is \$15, \$5 would be for the banks in the Philippines so that they can, after the money is transmitted to the Philippines that cost is a given \$5. Five dollars would be for the money transmitter here, and \$5 for the workers. That's all.

"With this measure, I think it is unworkable. It went through the SPPAM test and it fails. Therefore I urge my colleagues to take a look at this again. If it does come back from Conference Committee, and I hope that it will be a better way to create public policy that's more useful to our constituency. Thank you, very much."

At 10:27 o'clock a.m., Representative Cabanilla requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:28 o'clock a.m.

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

"Thank you Mr. Speaker I'd just like to note my reservations, and in light of my esteemed colleague's comments, I hope that as this proceeds to Conference that maybe looking at the fee structure and how to make it more reasonable in consultation with DCCA, might be an avenue that we can take. Thank you, Mr. Speaker."

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

"With reservations for similar concerns. Thank you."

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

"Thank you, Mr. Speaker. I will be voting with reservations. It's nice to see that the Representative from Waipahu is doing a lot better and well now. We miss his passionate debate. Mr. Speaker, I would also like to vote with reservations, as I will go through in more detail using his SPPAM analysis. Thank you."

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

"Mr. Speaker, with slight reservations. Based on the previous speakers on the Floor today, I want to make sure there is a balance. I do know that this is about protecting the consumers too, and that didn't come up in the speech. But I do think there's possibility of some merit to their argument on how it is impacting the people who want to be licensed. Thank you."

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

"Mr. Speaker, I'd just like to stand in support. I did meet with the concerned money remitters last night, and we're working through the bill and through these issues. But I'd like to shed some light and hopefully we can address these issues during Conference. I just wanted to shed some light with regard to the fee structure and how much actually these money remitters are handling and the volume they're actually doing.

"This is from DFI, the Department of Financial Institutions. Audited financial statements for the year that ended in December 31, 2006, the money remitters disclosed that, out of the eleven, nine money transmitters reported positive net incomes; and two money transmitters reported losses. However all eleven money transmitters reported new positive net worth. So everybody made a profit.

"Operating reports from the three months ending November 30, 2007, average number of remittances, for each remitter over a period of three months is 1,405 transactions. Every dollar amount of remittance over three months is about \$678,000 to \$999,000. That's over three months, so each of them are doing about \$200,000 of remittances a month.

"Average dollar amount of each remittance over a period of three months is about \$483. And the average number of operating locations over three months is two.

"The largest three money remitters in this business for one year report an average number of remittances each over three months is \$8,412 and these are the larger money remittance of the so-called, 'mom and pops'. The average dollar amount remittance is over \$3,419,309, and the average amount of each remittance is about \$406. And I'd like to insert additional written comments please. Thank you."

Representative Manahan's written remarks are as follows:

"Mr. Speaker, because Hawaii has a relatively large immigrant and ethnic population, with many of our residents having friends and families in foreign countries, money transmitters provide a valuable service in sending money overseas. This industry, however, has great potential for fraud, and it is important that the State place adequate regulations on money transmitters in order to protect consumers. When it comes to money, our first priority must be to ensure that these businesses are trustworthy.

"I support this bill, SB3009, which proposes more effective regulation. There is an irrational fear that the bill will somehow hurt "mom and pop" licensees, and make it unaffordable for them to stay in business. This is not true. Instead, this bill creates a more even playing field between the large non-banks money transmitter and the mom and pop operations, and provides much more assurance that they will be able to stay in business and serve the public in a professional manner for the long-term.

"Until 2006, money transmitters in Hawaii were not even regulated. In that year, the State Legislature passed Act 143, which required that money transmitters be licensed and regulated by the State Department of Commerce and Consumer Affairs. Currently, there are a little more than 40 licensed money transmitters in Hawaii, and out of that, there are 12 licensees that are headquartered locally.

"The bill does increase fees for the application, license and renewal license fee to \$2000, and increases the fee for an additional location in the State to \$300 plus increase of DFI Audit fee from \$40 to \$65 an hour. It also increases the maximum fee cap to \$15,000. These increases are reasonable and affordable, even for the mom and pop operations. I talked with a licensee who has nine agents; they do approximately \$20 million in transmissions per year, and they are considered small compared to the large non-banks money transmitter.

"Further, in order to reach the \$15,000 maximum fee cap, a business would have to have 43 agents under one licensee. That is a fair maximum level considering the amount of money brought in by the number of business transactions.

"Local money transmitters should realize that their competition is not the large banks nor large non-banks money transmitter. The real competition is the banks that are Philippine-based. Because some of them are subsidized, these banks are able to charge less and operate at a loss for a period of time long enough to develop a customer base. Because they are subsidized, they can do business for years by undercutting our Hawaii money remitters until they gain the customer's loyalty.

"The large non-banks money remitter in Hawaii, because of the sheer number of their agents, are bearing most of the cost, about \$375,000, of implementing the money transmitter program through SB3009. This program is essential to help ensure that Hawaii's money transmitters comply with all state and federal laws, and can assist local businesses, large and small, with information and best practices.

"For example, money transmitters must be in compliance with the Bank Secrecy Act of 1970, the BSA, otherwise known as the Currency and Foreign Transactions Reporting Act. Specifically, the Act requires financial institutions to keep records of cash transactions exceeding \$10,000, and to report suspicious activity that might signify money laundering, tax evasion, or other criminal activities. Several anti-money laundering acts, including provisions of the U.S. Patriot Act, have been enacted to amend the BSA.

"In the aftermath of 9-11, money exchanges face greater scrutiny. Banking rules to prevent money laundering have been strengthened, particularly on the international stage. Communication between law enforcement and financial institutions has been expanded, and there are increased requirements for recordkeeping and reporting. The maximum penalty for counterfeiting foreign currency has been quadrupled. It is no exaggeration to say that our local money transmitters must operate under these elevated requirements if they wish to stay in business and out of trouble.

"I support SB3009 because it is precisely what the money services industry needs in order to help business with government compliance, maintain competition from abroad, and most importantly, to protect the consumer."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3009, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MONEY TRANSMITTERS," passed Third Reading by a vote of 46 ayes to 3 noes, with Representatives Bertram, Cabanilla and Sonson voting no, and with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1659-08) recommending that S.B. No. 2850, 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. 2850, 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 on this measure. This bill will statutorily establish the Department of Agriculture Biosecurity Program, and it also provides funding for the program and for the planning of an interim permanent joint inspection biosecurity facility.

"I'm concerned about the appropriation with the economic climate that we're in right now. The Department of Agriculture is already

filling in the gaps in invasive species prevention systems, making this measure duplicative of the existing program. The bill is ambitious, but I think just a little premature. This bill may not pass, but I just have to take what we're looking at today. We do have a well-equipped and recently built inspection facility in the Kahului Airport. It is expected to greatly improve the capability of the Department of Agriculture to unload containers in a secure environment for inspections, as well as provide on-site inspections. So those are just the reservations that I have. Thank you."

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

Representative Tsuji's written remarks are as follows:

"This bill is part of the Joint House/Senate Majority Caucus Package, acknowledging the need to prevent and control the importation and spread of pests and would statutorily establish the Department of Agriculture's Biosecurity Program.

"Our State is in dire need of the legal ability and the workspaces to protect Hawai'i. SB 2850 would provide Department of Agriculture with the necessary tools to implement an effective biosecurity program by ensuring that it has the ability to conduct inspections on more than just incoming agricultural products. It would better ensure that the Department can accurately identify cargo that needs inspection and provide funds for the planning and building of a new joint Federal-State inspection and quarantine facility at the Honolulu International Airport. Any steps to protect and preserve our environment are prudent and this body should forge ahead in this effort by passing this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2850, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO BIOSECURITY," passed Third Reading by a vote of 49 ayes, with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1662-08) recommending that S.B. No. 2779, 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. 2779, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, I rise in opposition to this measure. Mr. Speaker this is one of three IFL-phobia bills that we will be debating today. For those that have forgotten, IFL-phobia is when we look up, we have an irrational fear of Lingle.

"This bill relates to limiting the Governor's powers to suspend prevailing wages when an emergency is declared. Having declared homelessness as an emergency has created again, another breakout of the IFL-phobia to the extent that some in this body said she may in the process of declaring every social and traffic situation in the State of Hawaii as an emergency, and thereby limiting the prevailing wages, as one of the reactions this bill addresses. The bill is conceived in false and deceptive premise. It's redundant because the Governor is already restricted in what she can do in terms of exempting prevailing wages when there is an emergency declared.

"Mr. Speaker, the formula for curing IFL-phobia is one, take a deep breath, count to seven, and then admit that the Fifth Floor knows what it's doing. Mr. Speaker, this bill is entirely unnecessary and it's entirely political. 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. 2779, HD 2, entitled:

"A BILL FOR AN ACT RELATING TO LABOR," passed Third Reading by a vote of 42 ayes to 7 noes, with Representatives Bertram, Ching, Finnegan, Marumoto, Meyer, Thielen and Ward voting no, and with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1663-08) recommending that S.B. No. 2876, 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. 2876, 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 standing in opposition to this bill. This bill will appropriate \$2 million from the Unemployment Trust Fund to the Hawaii Workforce Investment Board to improve employer outreach and services, labor force pool expansion, capacity building, and to fund some shared costs for the operations of the One-Stop Career Centers within Hawaii County. That's my problem with this is that it's just going to go to Hawaii County.

"This bill was introduced in the beginning of the Session. It's my understanding Mr. Speaker, that the Reed Act money is really to be used for times when you have a big spike in unemployment, which I believe we're looking at right now with the close of Molokai Ranch, Aloha Airlines and ATA. I think it's not appropriate to take this \$2 million and take it to the Big Island. I think it should be used where the largest group of unemployed people need to be serviced. Thank you."

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

Representative Takamine's written remarks are as follows:

"Mr. Speaker, I rise to stand in support of SB 2876 HD2. This bill would appropriate \$2 million to increase workforce development opportunities by tapping into Reed Act money and stimulating job growth.

"To build the brightest economic future, we need to have the strongest workforce possible. This means the best educated and the best skilled workforce which will be qualified to secure higher paying jobs and promote new industry in the State.

"As Mayor Harry Kim explained in his testimony to the House Labor & Public Employment Committee during a hearing on March 11th, 'In 2006, this Legislature appropriated \$10,000,000 (Act 190) for the four counties Workforce Investment Boards (WIBs). Of that amount \$1,900,000 came to Hawai'i County. We believe that we have allotted the money to projects that the Legislature would be pleased with, including Going Home (our prison-to-community re-entry initiative); Huiana, an island-wide high school student leadership program; and an initiative to directly serve and strengthen our work places through business center and business service representatives.'

"Due to the Hawaii Workforce Investment Board's successful management of the 2006 Reed Act monies, these new programs are helping hundreds of people develop the skills needed to attain better jobs. HWIB has learned how to use this money efficiently and effectively. If SB 2876 is passed, HWIB will be able to tap into their experience and expand their programs to help even more people.

"Though this bill originally appropriated Reed Act monies to all of the counties, it was amended to focus on Hawaii only because the others counties were not ready to proceed quite yet.

"Therefore, I stand in support of SB 2876, HD2, because it will increase support for the business community and contribute to the Big Island's economic health."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2876, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY," passed Third Reading by a vote of 47 ayes to 2 noes, with Representatives Finnegan and Meyer voting no, and with Representatives Nakasone and Sagum being excused.

At 10:38 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2842, SD 2, HD 2
 S.B. No. 2313, SD 1, HD 2
 S.B. No. 2663, SD 2, HD 2
 S.B. No. 3076, HD 1
 S.B. No. 3009, SD 2, HD 2
 S.B. No. 2850, SD 2, HD 2
 S.B. No. 2779, HD 2
 S.B. No. 2876, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1666-08) recommending that S.B. No. 2293, 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. 2293, SD 1, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, thank you. I'd just like to note my reservations on Stand. Com. Report No. 1666-08. My reservations are that there are a number of bills concerning affordable housing, Kaka'ako, in urban and rural development. And as these bills proceed forward, I hope that we look at how these bills are interacting with each other, including this bill, and make sure that we are in fact supporting the development of affordable housing. Thank you, Mr. Speaker."

Representative Evans 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 Evans' written remarks are as follows:

"Mr. Speaker, I am voting aye with reservations.

"The Chair of Housing has worked hard to find ways to stimulate the building of affordable housing, but the way this bill is structured may be a short-term solution with some unintended long term consequences. This bill would allow developers who meet certain criteria to be exempt from the Corporation's shared appreciation equity program; and notwithstanding sections 201H-47 and 201H-49, be subject to the transfer restrictions and occupancy requirements of sections 201H-47 and 201H-49, for three years instead of ten years.

"This is one of those instances where we should, 'be careful of what you ask for because you may not like the results'. I'm hoping that we are diligent in watching how these incentives will be used and if these developments will be affordable. I definitely do not want incentives to build housing that will not be affordable after three years."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2293, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AFFORDABLE HOUSING," passed Third Reading by a vote of 49 ayes, with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1667-08) recommending that S.B. No. 2982, 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. 2982, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"I just want to note my support with reservations on this bill. This bill started off as allowing the resale of reserved housing units by the Hawaii Community Development Authority and it was supported by many people in the affordable housing community.

"Before I move on I do want to declare a possible conflict. In my work with homeless veterans, we do deal with another side of the company that deals with affordable housing," and the Chair ruled, "no conflict."

Representative Pine continued, stating:

"It was amended in Finance to basically say that they can resell the units, but it has to remain affordable in perpetuity. At first glance, I was very supportive of that because I do believe there is a problem that we create affordable housing units and then it just allows someone else to resell it for a higher profit in the future, and then we don't have enough affordable housing units left. However, just in talking to the different people in the affordable housing and homeless community, there is a problem in binding the hands of future Legislatures and the HCDA. For example there has been a lot of concern with some of the nicer affordable housing units that are in some of the nicer buildings in Kaka'ako, the newer ones like Hokua and people do not want to sell that back to HCDA, and then have them sell for a higher price. And that sounds very reasonable.

"However in this tough economic time that's starting, and it will be even worse to come if certain forecasts hold true, it really would tie the hands of HCDA from, for example, selling that housing unit in Hokua at a higher price, at such a price that they would be able to from that one unit create 10 affordable housing units where more families could benefit. So I can see how that would really prevent us from helping future Legislatures and the HCDA from helping more people. So that's just my concern, and I guess we can discuss this as this bill moves forward."

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

"Thank you, Mr. Speaker. I do have reservations and would like to have short comments. Along the previous speaker's line of reasoning is that this bill would stifle our ability I believe, in the ability of the Legislature and the Governor and private industry to work together to come up with creative solutions to the affordable housing problem.

"A perfect example in which this House participated in is the collaborative effort with the Kukui Gardens, and I think I've mentioned this before, but it was really 'out of the box' thinking. And to have language like, 'in perpetuity' automatically doesn't set in onto a course of learning what you could do. It basically says that this unit has to remain in affordable. And that's where we create I think, our own boundaries and our own disincentives to creating these types of affordable opportunities.

"So as we do move forward, I would like for this body to take a look at that. And also know that there are already enough protections in place that HCDA has to follow, like the buy-back provision and shared appreciation. And noting that, looking back on our previous bill, which is Stand. Com. Report No. 1666-08, and following and being in line with one message as to how we want to deal with affordable housing, it seems like it's saying one thing in one bill, and another thing in another bill. Thank you."

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

"Thank you, Mr. Speaker. In support. Mr. Speaker, I guess I would just respond to the previous remarks by pointing out that right now in Kaka'ako, it's a huge struggle that we're going to talk about I'm sure in a bill that's coming up later. The current requirement of 20 percent of affordable units has fallen far, far short from the original plan that Kaka'ako was supposed to produce thousands of affordable units. We have just a fraction of that right now.

"Mr. Speaker, I was just really disheartened to learn that under the way that the reserved housing units work now, truly it's really an affordable unit only for the first buyer. The first buyer gets a great deal and then after waiting out I think it's about a two year buy-back period, they can make a windfall on this unit and that's why now no one can afford to live in Kaka'ako. This bill is going to come up later where the landowners in Kaka'ako are fighting tooth and nail on a requirement that's going to increase their affordable housing requirement by only 5 percent. I was really happy that we passed that bill out because others that are in the affordable housing market say it's totally possible. You can still make a profit. You can still do very well with an increase in affordable housing requirement.

"Mr. Speaker, another thing that we need to point out to this body is to use the example of Kukui Gardens and HCDA, those are two very different animals. Kukui Gardens was a private project that was run by a private company, and the State is now looking to jump in and try to help these poor seniors that are going to look at being displaced and not be able to afford to live there anymore.

"On the other hand, if you're talking about Kaka'ako, Kapolei and other places under the HCDA jurisdiction, our State taxpayers have contributed and paid a lot into those projects. The infrastructure cost millions to put in, to run the HCDA office and all of its staff, our taxpayers are paying money for this too. And I think that to require that these units remain affordable in perpetuity is something we owe to the taxpayers. I think to leave it to the private market and to say, if we just let them do what they want and have a temporary buy-back provision we're going to be taking care of it. It's not happening now. So without us taking a strong stand to protect our taxpayer investment, it is not going to happen. Thank you."

Representative Pine rose to respond, stating:

"I just want to clarify my thoughts. I think it is very right that we should say that we should have a certain percentage of affordable housing units in a certain area. I think that is the intent of the law. However as a suggestion, as this bill moves along, is to give HCDA the buy back so that that first buyer, for whatever reason has to leave that unit, say their income increased dramatically and they are no longer qualified for that affordable housing unit, the suggestion I would make is allow HCDA to have the first right of refusal to get another person into that affordable housing that met the original requirements of the first buyer. This just allows flexibility, and if for some reason we're in an economic bind where we can no longer put money into the Rental Housing Trust Fund the way that we'd like to because conveyance taxes are low, perhaps this would give the HCDA an option to look at possibly, selling this unit for another to create more units maybe down the street in Kaka'ako somewhere. Just flexibility is all they need. Thanks."

Representative Finnegan rose to respond, stating:

"Thank you, Mr. Speaker. I am still with reservations. I don't get it. It's still not happening with the, quote-unquote incentives that are taking place currently. As I mentioned earlier, the incentives to these developers, are actually disincentives. They're having difficulty meeting the 20 percent. So in turn what we do is we create a higher goal of 25 percent. If they're not coming forward on the 20 percent, what makes us think just because we're going to say it that people are

going to come into 25 percent affordability units. That's what puzzles me.

"It puzzles me that these developers are already saying it's already difficult as it is, and if we want these developers to come in with investments it's not going to happen if we make it even tougher to pencil out these developments. So you have some issues in regard to buy back or shared appreciation, then tinker with that. But putting it in perpetuity is a very long time. It gives no ability for creativity. And I do have to disagree that if we can do something like Kukui Gardens and be flexible in our thinking and creative in our solutions, then we can do the same with apartments or units that we do invest directly in with our State taxpayer. In fact, I would make the argument that even more so we should be doing that with our own taxpayer dollars. Thank you, Mr. Speaker."

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

"Mr. Speaker, in support. It's a complicated issue, so some of these arguments get convoluted sometimes, but I think the reason that the Human Services & Housing Committee, the reason that we supported this was that because raising the reserve from 20 to 25 percent still allows the developer to make money, and it also gives the developer an excuse to go back to their shareholders or their trust beneficiaries and say that the government has stepped in and says this is the most money we can make in this situation, but it doesn't eliminate profits.

"In fact, on an affordable housing project, a private developer can still make money. It's just that they're never going to be able to make as much money as they can producing luxury homes. And of course, the problem we have in Hawaii is that we compete on an international market for luxury homes. And so our citizens who make the average median, government income in Honolulu county is about \$70,000. Well, we're competing with people who come in and buy a \$1.2 million house and it's a second home, and they think nothing of it. So the private sector has to step up in the situations where they can still make money, but they have to understand too that we're never going to be able to compete with millionaires from around the world, and we need something other than luxury housing. Thank you, very much."

Representative Shimabukuro rose to respond, stating:

"Mr. Speaker, in support again. Just to respond that the argument that having a perpetuity requirement would have eliminated this great opportunity we had in Kukui Gardens to me is a completely backwards way of looking at it. If Kukui Gardens had been affordable in perpetuity we wouldn't have had to bail it out. We would be \$50 million richer in GO bonds that we could have spent on other projects.

"To me, I think Kukui Gardens is the perfect example of why we need perpetuity. If we hadn't come to the rescue for all these seniors, they could have been homeless. It cost us a ton of money, the community group FACE had to go through an extremely stressful time. There were lawsuits filed. The Legal Aid Society had to get involved, all because we don't have perpetuity. And this is what I'm talking about. If we don't require perpetuity, Carmel Partners is going to come in and offer a higher price and evict all these people and they'll be on the streets, or they'll be in Waianae on the beach.

"The argument that these developers with the disincentives, I wish that these people opposing the measure had been at the hearing on Kaka'ako. There was developer after developer actually that stood there urging us to increase these affordable housing requirements. Marshall Hung was there, Ken Matsuura, Central Pacific Bank, Momi Cazimero, all of them came and urged us to increase it because they said that the argument that affordable housing eliminates profit is totally untrue. As my Vice Chair aptly pointed out, yes, you are not going to make millions, the \$350 million profit that you would have if you're all luxury homes. But you can still

make quite a big profit even when you do affordable housing. Thank you."

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

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

"I'm just voting with reservations. I'm concerned about the provision that would make it three years instead of ten years on line 14, which does erode our market of affordable housing out there. I think it's going the wrong way. The 201H process is a way for developers to expedite building and that's how they can save money because time is money. The financing need is money. They can make a lot of money if we lessen the time for them to build these projects.

"The 201H process is great, it's made it possible for developers in Waipahu to circumvent land use laws and City & County permitting laws so that they can bring more affordable housing to the community. But by this measure when you exempt them from the ten year requirement and go to three years, it's going the wrong way. We should actually increase it to 15 years and find other ways to speed up the process so that the developer can make money at the outset when they're doing this, and at the same time we keep more affordable housing affordable for the people of Hawaii. Thank you."

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

Representative Finnegan's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support with reservations of S.B. 2982, H.D. 2 which allows the Hawaii Community Development Authority to sell reserved housing units in fee simple. I am concerned with using the term "perpetuity" in conjunction with reserved housing units. Affordable housing remains a top concern of mine as we address cost of living issues for our constituents. Requiring the units to remain affordable in perpetuity constrains creative thinking when faced with affordable housing issues. We all know that change is inevitable; and as change occurs we need to remain flexible when coming up with effective solutions.

"Hawaii Administrative Rules, Title 15, Subtitle 4, Chapter 22, Subchapter 4 specifically addresses reserved housing requirements and alternatives. These alternatives include making cash payments in lieu of providing such reserved housing units. Subchapter 7 governs the sale, rental or development of reserved housing units. These rules were established by the Hawaii Community Development Authority to govern all developments and use of properties within specific areas. Controls based on the purpose and intent of chapter 206E, Hawaii Revised Statutes, have been established to protect affordable housing units.

"In rebuttal and for clarification of the Chair of Housing's point about the two-year buy back restriction for affordable housing units being too short. The two year buyback restriction is based upon income levels agreed upon when purchasing a unit and is the minimum HCDA can do. However, the buyback restrictions range from two to ten years and I can only remember one occasion where the two-year buyback took place.

"The bottom line is that locking affordable units in perpetuity takes away any flexibility we might have when making decisions that might affect bigger housing issues. 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. 2982, HD 2, entitled: "A BILL FOR AN ACT AUTHORIZING THE RESALE OF RESERVED HOUSING UNITS BY THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY," passed Third Reading by a vote

of 49 ayes, with Representatives Nakasone and Sagum being excused.

Representatives Herkes and Waters, for the Committee on Consumer Protection & Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1668-08) recommending that S.B. No. 2896, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committees be adopted, and that S.B. No. 2896, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, I'm standing in support with strong reservations for S.B. 2896, SD 2, HD 2. I do appreciate the intent of this bill that deals with unlicensed contractors, but my strong reservation is with the cease and desist orders up front. I do know that I have constituents who are posing out there to be licensed contractors when they are not, and I think we should have a means to stop them and penalize them.

"But my concerns are that those customers, their clients, those homeowners that are taken by them and have paid advance money for their work. Now this is going to stop the process until they get their license. And we all know how long it takes to get a license. And probably they'll never be able to get a license because that's why they're posing as licensed contractors when they're not. So my reservations are that we should have a way to protect them or have them finish their work until we issue the cease and desist orders.

"And furthermore there are people out there too that would take an unlicensed contractor because of the promise of a cheaper cost, which I think that that's their choice. There still are people who do that. So we need to I think, work on this bill for consumer protection. Thank you, Mr. Speaker."

At 10:56 o'clock a.m., Representative B. Oshiro requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:56 o'clock a.m.

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

"On Stand. Com. No. 1668, I would also vote with reservations. I agree with the previous speaker in that this will unduly harm the owner or whoever is doing the renovations or construction. In addition, I feel that the penalties are quite harsh in this measure. Thank you."

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

"Mr. Speaker, in very strong support. This issue here is regarding unlicensed contractors doing the work. There are a lot of unlicensed contractors doing the work out there, or else this bill wouldn't be here. And as a policy I think, and as a body we should make sure that there is an even playing field out there and also law abiding contractors out there. We license them for a reason. It's for the safety of the consumers. We already have a law that says you have to be licensed, however it's not enforced.

"The purpose of this particular measure going forward today Members is to strengthen it to ensure that the Department, when they catch these unlicensed contractors doing these licensed activities, that they should be issued a citation right away, and issue cease and desist orders so that they cannot continue. The reason for that of course is because we have to assume that to be licensed, you have to be qualified. And if you don't have a license there must be a reason you

are not qualified. If it's because you can comply with the law that's one thing. If you are not qualified, and you don't have those skills, that's another thing. We have to protect the consumers or those are benefiting from the work of contractors.

"So as a body I think, we can all agree that we value licensed work because we can trust it and depend on it. We can make sure that they deliver what they are supposed to be delivering as a product. This measure has a cease and desist order because what has happened is there are people who know that they are supposed to be licensed, however they do it anyway because they will not get caught, or because it takes a long time to enforce the law if they are caught. And if you don't have a cease and desist order right away, they can finish the job. They can finish their job and still make a profit.

"Now there is no penalty provision here because we're trying to negotiate that and it will go to Conference. But the reason why there should be a large money penalty is because it is better to have something that will deter unlicensed people to even try to obtain a job to begin with, knowing that if they do obtain the job, knowing that they don't have a license and therefore they're not qualified to do it. They are faced with a large fine. Right now there's no large fines so to speak. The current law is ineffective because there is no such thing as contracts with them. It calls for 40 percent of the contract as the penalty, but since unlicensed contractors do not go into contracts, the \$500 a day that is currently in law is insufficient.

"The proponent of this measure deals with this issue everyday out there. The proponent of this measure I can tell you, I'm not going to mention his name, but he deals with steel. What he's saying is that we have contractors who are law-abiding, and we have these unlicensed contractors who are not dealing fair. Maybe because there is nothing to deter them, they can keep doing it over and over. Therefore put a \$10,000 a day fine so it will it deter them so if they get caught, when they get caught, they will face this. And hopefully the next person will think twice before they try to obtain a job without having a license. Thank you for your indulgence."

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

"Mr. Speaker, rising in support with pretty strong reservations. There are a lot of licensed contractors. Well, not a lot. I can't quantify the number. But say a small contractor who does large job and doesn't get paid. He puts a lien on that particular job. Every year when the contractors renew their license, they have to get a tax clearance, and if they owe any money to the State of Hawaii, they can't get a tax clearance and they are essentially out of business which is a pretty tough thing to take.

"There are some contractors and subcontractors who have been in financial jams and can't get their license renewed. That doesn't mean they're unqualified, that they don't know what they're doing. They've been licensed in the State of Hawaii, but they are unable to renew their licenses because they owe taxes to the State of Hawaii. I am not for people being unlicensed, but this bill with the kind of fines that were in there at one point. There is one proponent who thinks \$10,000 let's slap them down, I don't think we should all be listening to that one person. We need to have some thought about what is equitable and not just punish them. So those are my concerns and I hope that what we do pass in the end will be something more reasonable. Thank you."

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 rise in support. This measure helps to ensure the safety and welfare of construction workers. Recent incidents at a Downtown Honolulu site enforces the fact that this bill is not only

needed, it discourages unscrupulous activities from taking place in which State and federal laws are broken. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. On the same measure, with strong reservations. Some of the most vehement opposition to unlicensed contractors comes from licensed contractors. As I look at what happened in Committee and I look at the opponents on this measure, you have the Subcontractors Association of Hawaii, BIA Hawaii, RSI, and General Contractors Association of Hawaii. I would guess especially for BIA, in which I've had some opportunity to talk to on past measures, and General Contractors Association of Hawaii, that they would be in full support of something that would hurt or have consequences on unlicensed contractors.

"My concern on this is the unintended consequences. Say, if a subcontractor does not renew or lets their license lapse, that that would have the unintended consequence of cease and desist on the contractor. I would also think that these heavy fines, what the fears are of these different organizations is that these fines are really heavy, the previous bill where it stated the \$10,000 are really heavy. They're more fearful of something like that than they are of the unlicensed contractors. So as we move forward on this particular bill Mr. Speaker, maybe we can think of something else that would get to the problem of the unlicensed contractor. Thank you."

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

The motion was put to vote by the Chair and carried, and the report of the Committees was adopted and S.B. No. 2896, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CONTRACTORS," passed Third Reading by a vote of 49 ayes, with Representatives Nakasone and Sagum being excused.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1673-08) recommending that S.B. No. 2245, 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. 2245, SD 1, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. I rise in support with reservations on Stand. Com. Rep. No. 1673-08, Senate Bill 2245, SD1, HD 2. This bill is needed in light of an incident that took place where vehicles were stolen and an unattended child or infant was strapped into their seat. I have some concerns regarding the five minutes or longer stipulation as it takes less than five minutes for a vehicle to be stolen, in which case the child's welfare would still be in jeopardy. That is the whole reason behind this bill. But under this measure would not be a violation. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I rise in support of Stand. Com. Rep. No. 1673. Children are often victims of non-traffic, non-crash incidents as parents and caregivers sometimes may forget the risk presented by leaving children unattended in their cars. The temperature is 80 degrees which is quite common in Hawaii. The temperature inside a car receiving direct sunlight can reach 110 degrees in five minutes. When a child's body reaches 106 degrees, he or she can die or suffer permanent disability from heat stroke. Compelling was the testimony from Mrs. Deona Ryan who provided in relevant part: I am testifying for one child that died in Hawaii. In 2004, my daughter Aslyn Ryan, our little girl Aslyn, died February 7, 2004 from hypothermia from prolonged exposure to extreme

environmental conditions in our car. I ask that you help honor the child, the children, who have died, by promoting prevention.

"The second concern I have is that young children under the age of 9 left unattended in a vehicle may be at great risk for injury as he or she may touch the vehicle controls which may also pose a great risk to others.

"Senate Bill 2245 follows the same philosophy as giving a ticket to someone who does not wear his or her seatbelt. People understand or may understand the inherent dangers, but sometimes it takes legislation to change such dangerous behavior. For these reasons, I humbly ask all Members to support this measure. Thank you, Mr. Speaker."

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

Representative Lee's written remarks are as follows:

"Mr. Speaker, I rise in support of this measure. This is the seventh time I have introduced a bill on this subject. Unfortunately, many still do not understand or acknowledge that leaving a child unattended in a car can have tragic consequences: heat stroke/death, strangulation in a car window, injury from setting a car in motion, or abduction by a stranger.

"In 2007, media reports show that more than 35 children were known to have died across the nation from injuries sustained by being left alone in a car. These numbers do not include those who were left in a hot car and saved just in time, or those who have suffered but have not died as a result of being left in cars. Far too many children have lost their lives or suffered when it is completely preventable.

"This bill will help protect innocent lives by prohibiting operators and adult passengers of motor vehicles from leaving the vehicle with an unattended child under the age of nine inside for more than five minutes, and makes such conduct a violation of the statewide traffic code.

"This prohibition provides one more tool with which law enforcement, firefighters, or rescue team personnel may take concrete action in protecting Hawaii's children by allowing personnel to use whatever means necessary to protect and remove endangered, unattended children from the vehicles.

"Law enforcement, firefighters, or rescue team personnel will be required to immediately report this violation to the police if the guardian of the unattended child cannot be located within a reasonable time.

"In addition, there is an educational component, which requires the examiner of drivers to test license applicants for knowledge of this offense. And the requirements and penalties of leaving a child unattended in a motor vehicle shall be printed on a card, which shall be placed in the glove compartment of every rental motor vehicle offered to the public.

"I urge my colleagues to support this bill."

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

Representative Finnegan's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support with reservations of S.B. 2245, S.D. 1, H.D. 2 which makes it a violation of the statewide traffic code to leave a child unattended in a motor vehicle. The bill does not delineate between infant/toddler and child. I would be more supportive if the bill was more specific in regards to the targeted age.

You would be in violation if you left your eight year old and an eleven year old together in the car doing homework. There are many parents out there who think that this situation is no different than having these children walk to or from school or allowing these pre-teens to walk around in a store unattended. I believe an educational campaign would be just as effective in reducing risk of injury or death. I will support this bill but feel the infant/toddler is different than an older eight year old child. 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:

"Mr. Speaker, I rise in support with reservations on this bill.

"Mr. Speaker, this measure makes it a violation of the statewide traffic code to leave a child unattended in a motor vehicle. The problem with this bill is with enforcing it. The bill does not take into account circumstances where someone might leave a child in the car. For example, a mother might leave her sick eight-year old in the car to run into the pharmacy to get the child's medicine.

"The Honolulu Police Department testified that there are other laws that could be applied if a person leaves a child in a car with the intent to harm. I think this bill would put police in an unenviable position having to decide if the child left in the car is at risk, when they do not know how long the child has been there, and for what reason the parent is absent. Currently, the HPD will come to the assistance of a child left in a car if there is a complaint. 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. 2245, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO UNATTENDED CHILDREN IN MOTOR VEHICLES," passed Third Reading by a vote of 49 ayes, with Representatives Nakasone and Sagum being excused.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1675-08) recommending that S.B. No. 6, 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. 6, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

Representative Finnegan's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support with reservations of S.B. 6, H.D. 2 which prohibits the selling or offering for sale of opihi. Prohibiting the sale of opihi is an extreme measure in an effort to conserve a resource that has shown no sign of shortage. The Department of Land and Natural Resources has testified with concerns that a ban would create an underground or illegal market for opihi. I would prefer to see management programs that propose area closures or seasonal restrictions. Thank you, Mr. Speaker."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 6, HD 2, entitled: "A BILL FOR AN ACT RELATING TO OPIHI," passed Third Reading by a vote of 48 ayes to 1 no, with Representative Marumoto voting no, and Representatives Nakasone and Sagum being excused.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1678-08) recommending that S.B. No. 2170, 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. 2170, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LAND," passed Third Reading by a vote of 49 ayes, with Representatives Nakasone and Sagum being excused.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1680-08) recommending that S.B. No. 2263, 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. 2263, SD 2, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, I have reservations on Stand. Com. Rep. No. 1680. Thank you. For the University of Hawaii, we want to make sure we attract the best and brightest to the highest administrative levels. This legislation goes against this idea by requiring the University to disclose proposed compensation or changes in compensation for executive managerial positions filled by excluded employees. They must be disclosed in an open meeting of the Board of Regents for public comment.

"First of all, let's get rid of the phrase, 'newly hired' in this measure. I believe it's meaningless. This bill refers to proposed compensation so it pertains to people who have not yet been hired. The University in its testimony strongly opposed disclosure of salaries before actual hiring on the grounds of privacy. This measure would make it more difficult for the University to hire desirable employees. Potentially interested individuals would not want to apply in fear that it might endanger their present employment. Many prospective employees request that their application be handled confidentially until an offer is made and accepted. This is because when you apply for job you may not want your current employer to know, and so your present job might be jeopardized. The treatment of excluded executive employees under this bill invades their privacy and violates their right to equal protection.

"Under University policies and procedures, applicants for most positions can ask for and receive confidentially in the hiring process until an employment decision is made. In addition, proposed changes in excluded executive employees' compensation and the reasons for such changes are also confidential until a final decision is made. Since changes in current employees' compensation are generally performance based, pre-decisional confidentiality protects employees' privacy and the University's interest in providing candid feedback without subjecting prospective employees to possible public embarrassment.

"For those concerned about compensation and public notification, existing law already creates a careful and appropriate balance between the public's right to know and agencies' need to keep certain matters confidential. This balance is incorporated into Hawaii's Uniform Information Practices Act, HRS Chapter 92F, which includes an exception from the general rule of public disclosure in order to protect pre-decisional materials created during an agency's deliberative process. Once a compensation decision is made, executive employee's compensation of course is public information under current law and the University makes salary information available to the public as required. So let's stick to what works. Mahalo, Mr. Speaker."

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

"Mr. Speaker, I rise with reservations. Mr. Speaker this body should be commended in that it is very receptive and reactive to things that occur in the environment and we are quick to respond to them. This bill was a reaction to June Jones, once people realized what his salary was, they said this is too much. It's something we've got to open up everything to. And what we're doing is throwing the baby out with the bath as my previous colleague noted.

"My point is we have to be deliberative while we are at the same time reactive and responsive. I think this bill is going too far and too much because there's three hundred plus people who make more money than the Governor right now. And if we want to keep the best and brightest here, we can't have them publically exposed. Imagine one of us going for an interview and we don't want our constituents to know because we're going to resign our seat. Can you imagine the disclosure and the downside of which because of June Jones we're overreacting. I think we're going to put things out of kilter.

"The Constitution says we have given autonomy to the University of Hawaii, they are operationally and fiduciarly responsible for what they do. We're taking that back with measures such as this, saying that you guys have to tell us every dollar and cent that you offer somebody. Isn't that a little bit over-reactive? Isn't this policy something that we need to contemplate and seriously change before it gets out of this House in a matter of weeks? Thank you, Mr. Speaker."

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

"In support. First, this bill provides the public the opportunity to comment on the compensation being offered to or paid to top University of Hawaii executives. Up to 1985, the salary of the UH President was set by statute, but then the Legislature delegated this decision making authority to the Board of Regents. Since then, the top UH executives covered by this bill are more numerous than ever before and they are being paid more than ever before.

"Hawaii taxpayers and students are now paying the highest tuition rate increase in UH's 100 year old history and they deserve the right to know and to comment on the amount of monies promised to top administrators before the Board of Regents makes its final decision.

"This bill is also forward looking. Within a year, the Board of Regents will be searching for a new UH President. David McClain was appointed President in March 2006 on a three-year contract. Hawaii's Sunshine Law does provide that a Board may hold a closed door meeting to consider the hiring of an official where consideration of matters affecting privacy will be involved. However erroneously, the Board of Regents has stretched the privacy rationale for a closed door meeting to cover the amount of public funds being promised to compensate prospective hires and current executives. Secrecy surrounding the Board of Regents' decision making creates suspicion, undermines public trust, and historically has provided much negative publicity and embarrassment to the University and the State. Thank you very much."

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

"Thank you, very much. In strong support and may I adopt the words of the previous speaker as if they were my own? In addition I'd like to also state that the number is actually 473 individuals in the UH System that make a lot more than the Governor. I think we cannot stress enough the concerns of the students and the faculty that don't make as much money for one, and the concerns of our parents who have to pay for their children's tuition. We have a right to know. And I don't think this is too much as one of the prior speakers said, that it is way too much to ask. This is taxpayers' dollars, nothing is too much to ask. But there are some limits maybe, I haven't seen one yet, but this particular bill is certainly not too much.

"First, the process that exists today allows for a public meeting anyway. What this bill does is just gives another six days. Just six days before the actual disclosure so it will give the public a meaningful time to take a look at what's going to be proposed at the meeting so that they can respond. It is really hard, really difficult to respond to arguments when we are right there. We don't remember when we go to Committee and all of a sudden you face a stack of papers that are the testimonies that you are going hear. Some people may not have come to testify so you are responsible for this. It's really difficult for us to do our job, and I think that's why the Members of the other side of the aisle are always saying, 'Can we have the testimonies in advance?' Well I know why. You want to always be prepared.

"So what the proponents of this measure want is to be prepared in order to make sure that they can ask the proper questions, so that they can represent their constituency in the best way they can. There is nothing wrong with providing information in advance. It doesn't violate the Sunshine Law. It does not impact the negotiations behind closed doors. That's still allowed. What it only does is give that small window of time. Six days. I don't think that's too much. Thank you, Mr. Speaker."

Representative Ward rose to respond, stating:

"Second time, with some reservations, Mr. Speaker. I think it's a clear hypothesis and proven that education is a driver of our economy. We want to seek excellence at the University of Hawaii, throughout the State System, throughout the Community Colleges. If we look at the faculty wages, we are not out of sync with the United States. The only difficulty is we have a cost of living 40 percent higher than the United States, yet we pay the same wages. None of the wages that we have in large numbers more than the Governor are out of line with what otherwise as a nation we actually pay.

"The difficulty is when you try to get a professor here who has to buy a house from \$600,000, to \$800,000, to \$1 million, they think twice. If the salary is going to be the same that they're making back, in fact you can ask our good doctor from the Big Island, why are doctors not coming here? The wages are comparable, even though I believe you would submit that they are lower, but they have to have a cost of living and the school system, etc. are the bigger variables.

"The point is if we want education as a driver of our economy, if we want to have the best and the brightest, and as we honored on the Floor here for a hundred years of excellence at the University of Hawaii, if we want to proud of these people we have to pay them. If we're going to pay them we want to be able to have a procedure that gives autonomy to the Board of Regents to attract them to stay here. This in the guise of disclosure. Yes, it's great. It sounds like we're beating the drums of democracy and openness. But in the effect of it, if it goes contrary to us, we still start putting the University on a downhill path. Mr. Speaker, nobody wants that.

"We want to get into science, technology, engineering and math. We want to be better. We want to turn our tourism economy into a mind and an intellectual based economy where we've got proprietary discoveries in science and biology and all the other things. So we're going to get the people here to teach our kids, we've got to be able to attract them here, this is one of the methodology we've used; it's one of the things that we're going to take away if this continues in its present run. Thank you."

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

"Thank you, Mr. Speaker I rise in support of this measure. I'd like to the words of the chair of the Higher Education Committee adopted as if they were my own. First, I'd like to clarify something said by the Representative from East Honolulu. He said that we gave the University constitutional autonomy and that is not true. The voters of the State, I believe it was the year 2000, voted for a constitutional amendment for the University, but all that amendment did was it

gave the University what I call, constitutional flexibility. The University of Hawaii is not autonomous in the State of Hawaii. In fact we should all know that because there are so many bills coming through our House. There are so many requests for funding items. We still play a vital role as to how much general funds they get. We dictate to some extent, how they use their special and revolving funds. They do not have constitutional autonomy.

"But this bill is not about constitutional autonomy. This bill is about providing the public, and in this case the University faculty, students, University community, and also the general public with the opportunity to know how much someone is going to get paid if they're going to work at the University and to be able to comment on that. That's akin to a few years ago the other side of the aisle requesting information about our budget. They wanted to know how much this was going to cost. And today we have a very open budget process with details that are available to not only our Members, but also to the public. If we can do it in this House and the Senate can do it in that house, I think the UH Board of Regents can do it as well for any potential hire. And to give the public an opportunity, six days, to know how much the new President is making, or how much the new Vice President is making, or how much the new Chancellor is making, to me, is totally appropriate.

"The other thing that this bill does is it requires the Board of Regents once again to disclose the budget documents as they discuss them. Last year you may know, I believe it was in August, the UH Board of Regents went about its process to approve the budget that was sent not only to us, but also to the Governor. At that meeting the discussion was cryptic and without any information shared to the public. And I think the University of Hawaii Professional Assembly representing the faculty objected to that process, and they changed, the UH Board of Regents and the UH Administration changed their process because they were made aware that that type of procedure should not have occurred. This bill makes sure that once and for all, the budget decisions that are being addressed by the Board of Regents on the University's biennial and supplemental budget will be available to the public when they're discussing it. These two things are fair. I think these two things are items that we all have requested over our tenure as legislators in our own process, and we do do it.

"So I think whoever is concerned about this particular measure should read it and put yourself in the position of the public, the UH faculty, the UH community out there who I believe, have a much bigger stake in the success of our University than we do here at the Capitol. Thank you, Mr. Speaker."

Representative Marumoto rose to respond, stating:

"Thank you. Just to respond to the previous speaker. Yes, it is true we did not give the University of Hawaii total autonomy, but we did give them autonomy in their internal affairs and how they run the UH System. When it comes to hiring, hiring is definitely an internal matter, so I would still maintain that this bill is flawed in terms having to disclose, forcing them to disclose salary before people are hired. Thank you."

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

"Thank you, Mr. Speaker. I stand with reservations. My concern is with the policy or the precedence that we are creating, I believe that there are maybe even legislative and civil service jobs throughout the State that pay more than the Governor, and we are going to have public hearings to have people comment on those jobs?

"I don't think that we make those jobs public and what people get paid. So if we're going to have some kind of policy like that, be open to the questions that may open up more transparency I guess with all jobs that pertain to the public. Thank you."

Representative Ward rose, stating:

"Just a brief rebuttal."

The Chair addressed Representative Ward, stating:

"No. Representative Ward, you've spoken twice already on this measure."

Representative Ward: "So a rebuttal is not considered. As the Constitution says we give them autonomy I was just going to say ..."

Representative Takai rose to a point of order, stating:

"Mr. Speaker, the speaker is out of order."

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

At 11:25 o'clock a.m., Representative Say requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:25 o'clock a.m.

Representative Finnegan rose, stating:

"Thank you, Mr. Speaker. I just wanted to make a comment in regard to the former speaker from Hawaii Kai being ruled out of order. I believe that speaking on the third time has been done before. We've done it in the past and that it was up to the Speaker to determine. So I just wanted a clarification on that issue."

The Chair responded, stating:

"I think we've had a lot of discussion on this issue."

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

"Point of order. I believe, no, we've never done that actually. 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. 2263, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 49 ayes, with Representatives Nakasone and Sagum being excused.

At 11:26 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2293, SD 1, HD 1
 S.B. No. 2982, HD 2
 S.B. No. 2896, SD 2, HD 2
 S.B. No. 2245, SD 1, HD 2
 S.B. No. 6, HD 2
 S.B. No. 2170, SD 1, HD 1
 S.B. No. 2263, SD 2, HD 1

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1683-08) recommending that S.B. No. 3008, 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. 3008, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CODE OF FINANCIAL INSTITUTIONS," passed Third Reading by a vote of 49 ayes, with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1684-08) recommending that S.B. No. 3252, 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. 3252, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. On Standing Committee Report, 1684 I stand with reservations. This bill, relating to teachers, contains a number of initiatives and appropriations that are in place in order to attract and retain teachers here in Hawaii. And although these initiatives and appropriations are very good, we may not have enough money to fund all of them. And more importantly it only takes small steps toward addressing the teacher shortage.

"Mr. Speaker, I would submit that there are day-to-day practices that would make the profession of teaching much more attractive and we need to look at some of those day-to-day situations, the added bureaucracy, and what we put teachers through, and whether they're satisfied and happy in their job. I think that that's a big part of it. My thoughts are that what if people are constantly taking jobs in the private schools that pay less, but maybe we should look at what they're doing to make the teachers more satisfied.

"In addition one of the biggest battles to teacher recruitment continues to be more recognition of out-of-state teacher licenses, and I think we need to take a look at that. Thank you, Mr. Speaker."

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

"On that same measure, I'm rising in support, but with strong reservations. I would like to have the words of the previous speaker inserted into the Journal as if they were my own, and also add additional remarks. Thank you."

Representative Meyer's written remarks are as follows:

"Mr. Speaker, I rise in support with reservations on this measure.

"Mr. Speaker, I understand we have a teacher shortage in Hawaii and we should make a concerted effort to encourage young people to become teachers. But what this bill does is appropriates a lot of general funds. Money for new programs such as housing assistance, teacher training, pilot programs, and even more money per pupil for special coaches, for robotics, speech, and debate. It looks like a very expensive wish list.

"Mr. Speaker, I believe the biggest barrier to hiring more teachers is the DOE's policy of not accepting teachers' credentials from out of state. Why should a trained teacher have to take classes here to be accredited in Hawaii when they have been teaching for years in the public schools in other states?"

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

Representative Finnegan's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support with reservations of S.B. 3252, S.D. 2, H.D. 2 which addresses the teacher shortage in the State through various initiatives. This bill appropriates unspecified amounts of money into various programs. The Department of Education testified that it supports the bill but feels the Board of Education's Supplemental Budget Request is more important.

"I would also like to point out that not all solutions have to involve money. I've seen teachers who don't feel supported leave the Hawaii Public School System in favor of jobs that pay less. Some flock to private schools and some take on whole new careers.

"In our current economic state where money is so constrained lets take steps to address the non-fiscal issues. 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. 3252, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TEACHERS," passed Third Reading by a vote of 49 ayes, with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1687-08) recommending that S.B. No. 2196, 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. 2196, 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. DLNR currently issues commercial use permits for the State small boat harbors, launch ramps and related facilities, as well as requiring all equipment used for commercial purposes on State waters to be registered with DLNR. By requiring DLNR to regulate commercial activities originating in public and private property would be very burdensome, and difficult for the Department. They don't really have the staff to handle that at this point in time. For those reasons, I'm voting no."

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. 2196, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO COMMERCIAL ACTIVITIES ON OCEAN WATERS," passed Third Reading by a vote of 47 ayes to 2 noes, with Representatives Marumoto and Meyer voting no, and with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1688-08) recommending that S.B. No. 2644, 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. 2644, SD 1, HD 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. No. 1688, in regard to the State historic preservation officer and its qualifications. Mr. Speaker I'll be voting no in regard to this measure and it's mainly because this is a very difficult position to fill, and it's strapped with a lot of difficult issues. And to make the qualifications, to lay out qualifications I think, doesn't give the flexibility to the Administration to be able to fill that position in whatever way that they need to.

"I also believe that we are connected and accountable to the federal government on this matter as well. I have some additional written remarks, but those are my main concerns."

Representative Finnegan's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition of S.B. 2644, S.D. 1, H.D. 1 which specifies the required qualifications for a State historic preservation officer and deputy historic preservation officer and adds requirement that notice of the appointment of a State historic preservation officer be given to the legislature.

"I believe this crosses the bounds of separation of powers between legislature and government. Thank you, Mr. Speaker."

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 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:

"Mr. Speaker, I rise in opposition to this bill.

"This bill requires that any person who is appointed by the Governor as the Historic Preservation Officer (SHPO) must meet the required standards established by the United States Secretary of the Interior. Mr. Speaker this bill is unnecessary. The current practice of having the Chairperson of DLNR and the administrator serve as the Deputy SHPO meets the required federal guidelines.

"The current organizational setup of the State Historic Preservation Division (SHPD) has the Chairperson of the Department of Land and Natural Resources serving as the SHPO while the State Historic Preservation Division Administrator serves as the Deputy SHPO. Having the Chairperson serve as the SHPO allows for the oversight over the State Historic Preservation Division and staff's work with federal entities. Because this bill is unnecessary, I urge my colleagues to vote 'no' on this measure. 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. 2644, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE HISTORIC PRESERVATION OFFICER," passed Third Reading by a vote of 46 ayes to 3 noes, with Representatives Finnegan, Meyer and Pine voting no, and with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1689-08) recommending that S.B. No. 3206, 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. 3206, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO KAWAI NUI MARSH," passed Third Reading by a vote of 49 ayes, with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1691-08) recommending that S.B. No. 3215, 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. 3215, SD 3, 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 Senate Bill 3215, Relating to Biodiesel. I can do this rather briefly and I'm going to quote from Tax Foundation of Hawaii's testimony, and I quote:

As we are all learning the efficacy of using biomass fuels has now been brought into question where some studies show that the road to the production and use of biomass could produce far more greenhouse gases than biomass purportedly saves. Granting tax breaks to technologies that have yet to be proven to be beneficial is like handing out good grades for homework poorly done.

"I've cautioned before in this House that we should be very careful about jumping on the bandwagon for biofuels. Right now we're

seeing some deforestation that is now accounting internationally for 20 percent of greenhouse gases. The deforestation is, of course, because of the biodiesel crops and we are doing severe damage in many rainforest areas.

"I think this bill is probably very well meant, and very well intended, but I also think that people need to look at the broader impact, the negative impact from granting this preference for biodiesel crops.

"And the other comment that I would have is that we need to treat food production really on a higher plane because we need to have food for our local people here, and in the event that we take the wrong steps and we can't rely upon imports from other areas, we have to be sure that we have protected our own food source locally for our people. Thank you."

Representative Evans 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 Evans' written remarks are as follows:

"Mr. Speaker, I rise in support with reservations. It's a good thing our technology is moving us away from dependence on oil. But, my reservations come from wanting our society to understand more on the costs to produce biodiesel, the costs to the consumer, and a better understanding of potential impacts on our natural environment."

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:

"Mr. Speaker, I rise in opposition on this measure.

"Mr. Speaker, this bill requires the Department of Agriculture's Energy Feedstock Program to support market development for biodiesel feedstock. If this bill passes, the Department of Agriculture will need to request significant funding, CIP funds to build storage facilities, funding to purchase crops, and funds for new personnel with expertise in fuel trading and processing.

"This bill's tax exemption is vague and unclear. Does it apply to 100% of income derived from the processing of oil seed produced in the State, or to 100% of all income from any facility that processes any amount of oil seed produced in the State? One cannot tell. Rather than singling out a particular area for tax relief, efforts should be made to improve Hawaii's business climate to "grow" the economic prospects for all businesses.

"I am also worried about the impact this bill would have on the environment. Some studies show that the production and use of biomass could produce far more greenhouse gases than biomass purportedly saves. Biomass is not as environmentally friendly as many scientists have claimed. Thank you."

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

"Mr. Speaker I rise in strong support and I would like to thank my colleague from Kauai for introducing this bill."

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

Representative Finnegan rose 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. 3215, SD 3, HD 2, entitled: "A BILL FOR AN ACT RELATING TO BIODIESEL," passed Third Reading by a vote of 46 ayes to 3 noes, with Representatives Marumoto, Meyer and Thielen voting no, and with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1692-08) recommending that S.B. No. 2933, 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. 2933, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. I rise in support with reservations on Standing Committee Report 1692-08, Senate Bill 2933. Mr. Speaker, this bill allows the use of clotheslines by owners of privately owned family residences and provides restrictions on the locations of clotheslines. The purpose of this Act is to prohibit contracts and other binding agreements from precluding the erecting and the use of clotheslines on a premises of single family dwellings, and to prohibit rules on the placement of clotheslines from being unduly or unreasonably restrictive.

"First let me make clear that I applaud the intent of this bill which is to reduce the use of clothes dryers to decrease the amount of electricity that households use and thereby reduce the amount of fossil fuels used to generate electricity. My issue with this bill however is threefold.

"First the language in this bill is tenuous in that it states, quote: 'No person shall be prevented by any covenant, decoration, bylaws, restriction, deeds, etc. from erecting and using a clothesline for the purpose of drying clothes on a premise of any single family residential dwelling or townhouse that a person owns provided that rules that facilitate the placement of clotheslines shall not be unduly or unreasonably restrictive.' Mr. Speaker the terms, 'unduly' or 'unreasonably restrictive' are simply relative and difficult to interpret. I submit that it is bad public policy to be passing laws with tenuous language because it will lead to lawsuits for interpretation by a court of law thus increasing litigation.

"My second issue with this bill is that some communities in Hawaii are guided by Homeowner's Associations. For example the Villages of Kapolei, the town of Mililani, the towns of Waikale, Village Park and Royal Kunia are all under the auspices of Homeowner's Associations. As such people living in these communities are bound by project documents such as the declaration of Covenants, Conditions and Restrictions also known as CCRs. Restrictive covenants therefore are rules which homeowners must follow as part of the upkeep of the neighborhood. While the Legislature purports that it is simply aesthetics, I submit that it is for another reason. It's for the property values of a homeowner to keep up that property value by being bound by these restrictive covenants.

"I live in a Homeowner's Association and chose to live in a community under the auspices of a Homeowner's Association because I wanted to live in a planned community with restrictive covenants to keep among other things, the value of my property. I can support this bill wholeheartedly if the clotheslines were screened off and not in plain view because that would achieve the intent of this bill while also including the upkeep of one's property value and the aesthetics of the community. That was a simple compromise to this measure and I'm sorry that it was not inserted into this bill.

"Finally Mr. Speaker when homeowners sign their project documents upon purchasing their home in a Homeowner's Association, a legally binding contract was entered into between the developer and homeowner. By passing this law we're arguably

interfering with contractual relations. For these reasons Mr. Speaker, I stand in support with strong reservations. Thank you."

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

"Mr. Speaker, I'm rising in support with reservations. I too have a district that has several planned communities which include Waikale, Royal Kunia and also Village Park. I have reservations and concerns, but I support the intent. I would like to adopt the words from the previous speaker from Kapolei as my own," and the Chair "so ordered." (By reference only.)

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

"Thank you, Mr. Speaker. I rise in support of the measure. I represent the Princeville area which is I believe the second largest planned community in the State. And of course I ran the language of the bill by the Homeowner's Association which found no problems with the language, and actually allows people to dry their clothes outdoors. They didn't find it overly burdensome.

"I just wanted to point out to the Members that this community probably has the highest property values in the State, and in one of the most beautiful areas in the State along the golf course with numerous resort complexes within this planned community. So again, they found no problems with this measure. 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. Mr. Speaker I don't think it's appropriate for the Legislature to try to preempt contract law. These Associations, as the speaker from Kapolei said, many of the buyers of these properties with restrictive covenants, they sign a paper saying they agree to those covenants. And some of the covenants actually run with the land. They're included in the deed. These are recognized documents that hold water and everybody agrees to it. For us to just pass a bill and say 'Nope, that means nothing. We know what's good for you,' I don't think that's appropriate.

"Some covenants have a short period on them, maybe 20 years, 15 years. Some can be amended. We have Associations, Homeowner Associations, and these folks can decide what they want in their neighborhood. But for us to send out this edict that we don't recognize any of these contracts, covenants, declarations, bylaws, they mean nothing to us. The greater good is you hang out your laundry. I don't think that's appropriate, Mr. Speaker."

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

"Thank you, Mr. Speaker. I would like a ruling on a potential conflict. I'm a member of a community association that would be affected by this measure. And another one. I own a clothes dryer," and the Chair ruled, "no conflict."

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

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

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

"Mr. Speaker, I want to speak in favor with some minor reservations. My only reservation is that we don't have a tax credit

for a clothesline. We have a tax credit for everything else. Why not for clotheslines?"

"It brings back memories when I had a clothesline in my home years back, and watching the sun shine on the clothes. And in the evening you had to look out for some weirdoes who came out and took the women's underwear. Anyway, I'm sorry, Mr. Speaker. I think that we should encourage more of this activity with a tax credit. Thank you."

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

"I'm rising still in support Mr. Speaker, but I would like to make a few comments. I represent Ewa, and one of the biggest blessings that Ewa has is sunshine, about 300 days a year. Furthermore, I represent an area with community associations and condominium associations, and I was really elated when I heard about this bill that was introduced by my colleague from Kauai, because I didn't have to introduce it. A lot of my constituents have been harassed by these community associations because they want to hang their clothes outside. So I'm expressing the sentiment in my district, but they do favor clotheslines. Thank you."

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

"I just wanted to disclose a conflict. I'm a member of a community association as well," and the Chair ruled, "no conflict."

Representative Pine continued in support of the measure, stating:

"I'm in strong support, and I would love to have clotheslines in my backyard, but I'll put them below the gate so that those people that are opposed to it are not mad about it."

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

"Thank you, Mr. Speaker I rise in support of this measure. Just briefly, I represent a community in Aiea, and in fact live in Newtown, one of our planned community associations in that area. But I also am the President of another condo association in Waiiau, and I just want to remind the Members that it took either an act of Congress or an act of the Legislature to allow homeowners to put up solar water heater panels, and to also put up satellite TV dishes. And it's because of progressive people before us that saw the benefits of those two items that we now have it as standard regardless of covenants and deeds and things like that.

"I understand the concerns of some of the colleagues in respecting the rights and privileges of Associations, and I think we can work on this a little bit more. But it's going to take a law to allow members of our communities to save energy and utilize clotheslines. I just wanted to also mention, if you don't have a solar water heater, water heaters are the number one utilizer of electricity, and I think number two, followed very closely, are clothes dryers. So I think this is going to save a lot of electricity. Thank you."

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

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

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

"I want to thank the Representative from Maui for interjecting levity into the debate on the Floor today. But my position is with reservations because of the falsity of government that I think is behind this."

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

"Thank you Mr. Speaker I'd like to submit written comments in support and also note I'm also a member of the community association," and the Chair ruled, "no conflict."

Representative Evans' written remarks are as follows:

"Mr. Speaker, in strong support. Clotheslines were a way of life before clothes dryers. With the high cost of electricity and what it takes to produce electricity, I strongly support the use of clotheslines. I personally do not find offensive the sight of clothes hanging. But, I'm sure many do find them offensive. Therefore, putting restrictions on where clothes can be hung is reasonable, as long as clothes can be hung. It's important to point out sometimes our laws are too vague and those who control decisions in planned community associations and homeowner associations can pass rules that reflect their own personal values instead of the good for all. We must be sure our intent is clearly understood."

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

"Thank you, Mr. Speaker. I'd like to vote in support, but with reservations and ask that the words of the Representatives from Kapolei and Aiea be entered as my own. I would also like to disclose that I am also on board of a community association," and the Chair ruled "no conflict."

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

Representative Finnegan's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition of S.B. 2644, S.D. 1, H.D. 1 which allows the use of clotheslines on any privately owned single-family residential dwelling or townhouse. Contracts should be taken seriously. Government shouldn't haphazardly make laws that change the terms of an agreed upon contract. I'm sure there are other ways to achieve the goals of this bill. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2933, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HOUSEHOLD ENERGY DEMAND," passed Third Reading by a vote of 47 ayes to 2 noes, with Representatives Finnegan and Meyer voting no, and with Representatives Nakasone and Sagum being excused.

At 11:48 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 3008, SD 2, HD 1
S.B. No. 3252, SD 2, HD 2
S.B. No. 2196, SD 2, HD 2
S.B. No. 2644, SD 1, HD 1
S.B. No. 3206, SD 2, HD 1
S.B. No. 3215, SD 3, HD 2
S.B. No. 2933, SD 2, HD 2

At 11:48 o'clock a.m., Representative Thielen requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:51 o'clock a.m.

LATE INTRODUCTION

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

Representative Manahan introduced the 7th and 8th grade students of St. Anthony School in Kalihi. They were accompanied by Mrs. Thorp and Sister Imelita.

UNFINISHED BUSINESS

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1696-08) recommending that S.B. No. 2720, 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. 2720, SD 2, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

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

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

"Mr. Speaker, on Stand. Com. No. 1696, I'm in support with reservations because this money was not included in the budget."

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

"Mr. Speaker, regarding the question of the previous speaker. Yes, these positions are not in the budget, but we're hoping that through the budgetary process that we can get our colleagues to see the future value of these positions and how it would impact the overall expansion of the fire-safe cigarettes, as well as potential fire mitigation plans and potential supporting of additional issues relating to fireworks. 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. 2720, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE FIRE COUNCIL," passed Third Reading by a vote of 49 ayes, with Representatives Nakasone and Sagum being excused.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1698-08) recommending that S.B. No. 2341, 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. 2341, 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 is a bill that requires contracts made directly between the State and a non-governmental entity or through an interstate compact that provides for the incarceration or detention of Hawaii prisoners outside the State to have a contract or provide access to the same information as is required of the Department of Public Safety in the Sunshine Law. It includes the same remedies for the failure of the contractors to provide information as required by government agencies in the Sunshine Law.

"The problem I see is that these private prisons on the mainland are non-governmental entities performing a government function and I question whether they're subject to the UIPA requirements. The measure requires a private corrections contractor who contracts to house Hawaii's State inmates to submit to procedures required by State agencies under HRS 92F simply because they contract with the Public Safety Department of the State of Hawaii.

"I'm concerned that if this law passes, we will not have any private business who will want to contract with us. This could create a real problem for the State if suddenly we had to bring all our prisoners home. We have elected to send them to the mainland rather than build new prisons here, but if we put out a requirement that the private prisons are not going to follow, they're not going to bid for our business. And I think having all the prisoners come home would really be a crisis situation. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I'm rising in support. The previous speaker I think did well in teaching us what this bill is all about. But really, what it's about is we have people housed on the mainland and their parents, their family members, their loved ones, people who are advocates for people in our prison system who want to make sure that what we pay for is what we get. And I believe that having access to information to what's in the contract, have it readily available to the people that are housed in these facilities as well as the family members is very important to make sure that our inmates are treated with respect and fairly and in accordance with the contract that we're paying.

"You could argue that we don't want some of our laws applying to the 'private sector,' but this is about our people, our brothers and sisters and members of our community that are living in another State under the control of someone else. So I think having this visibility is very appropriate.

"I really don't agree with the argument that it's going to keep the private sector from bidding on this because this is for profit and we're finding out they're making a good profit, these private prisons. So having the contract readily available, I don't see that as a problem. Thank you."

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

"Thank you, Mr. Speaker. I will vote with reservations on that same bill and submit written comments. I do believe that this will discourage the private contractors from bidding and if so we should be prepared to monetarily support these prisoners returning.

"We all know that that's going to be a large amount. We all know that it's been a very huge struggle for the people of Hawaii, for our Legislature, for the Governor to find a place where we can build or expand our prison. If we go into measures like this, the unintended consequence could be the return of all of the prisoners then we need to be prepared for it and it needs to show up in the budget. Thank you."

Representative Finnegan's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition of S.B. 2644, S.D. 1, H.D. 1 which requires out-of-state detention facilities holding Hawaii prisoners under a contract with the State to make public information about the operation of the prison. This would discourage private vendors from bidding. Realistically, where will we put our prisoners if contracts aren't renewed? The unintended consequence of this bill is that all our prisoners return upon non-renewal of private prison contracts. This in affect ensures that "ALL" services and programs are lost for the prisoners, over crowding our current facilities, and seriously compromising safety. Thank you, Mr. Speaker."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2341, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Third Reading by a vote of 48 ayes to 1 no, with

Representative Meyer voting no, and Representatives Nakasone and Sagum being excused.

Representative Magaoay, for the Committee on Legislative Management presented a report (Stand. Com. Rep. No. 1735-08) recommending that S.B. No. 2129, 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. 2129, SD 2, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. This is in regard to Standing Committee Report No. 1735. I am standing in opposition. The purpose of this bill is relating to elder affairs. The purpose of this bill is to promote the well-being of elder citizens of the State by ensuring that the recommendations and positions of the policy advisory board for elder affairs are disseminated, unaltered and unedited. This bill authorizes PABEA to testify before the Legislature on any matter related to its duties and responsibilities.

"Mr. Speaker, when you read those words and purposes, as well as what the actual legislation or what the bill says it does, it basically insinuates that they have no voice; that they're being under the thumb of the Governor and that they cannot speak. The Board cannot speak outside from speaking to the Governor and that the Legislature doesn't get truthful information is what I gather from this bill. And in speaking with and in front of us, when we had the Director of the Office on Aging speak on this bill, she did say that they have good working relationships, and that the PABEA actually has the ability to testify on their views on different issues and different pieces of Legislation.

"The only thing is that the Governor's Office, in handling some coordination in regard to seeing the testimony, and I think that that's fair. That is out of the Department of Health and that that information should be shared with the Governor's Office. One of the things when asked was can they basically testify with their own positions and as long as there is a disclaimer on there that basically says that this doesn't represent the views of the Governor or some kind of language like that, that they're okay to go ahead and testify with that information. I believe that that is fair.

"So by passing the piece of legislation or a bill like this, in the end, I just don't know what it does. We did change the effective date so this looks like it's going fast track forward, and the language just to restate what the language is in the bill, is the Board may testify before the Legislature on any matter related to it's duties and responsibilities in which they can do now. Thank you, Mr. Speaker."

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

"Thank you very much, Mr. Speaker. I stand in support. To respond to the comments made by the Minority Leader, this in fact is a real issue and I've had the privilege and the pleasure of working with PABEA over the years, particularly with prescription drug issue. I've been to many of their meeting and in fact, that is the concern. There has been a chilling effect on the ability of PABEA to come testify at the Legislature, free and clear.

"I think it really strikes the heart of their concern, and that is, does PABEA represent the interest of the elderly in the State, or should they represent the Administration? They believe it's the former and they were told that their testimony has to reflect the concerns and positions of the Administration.

"I believe this bill really clarifies that they have an independent position within government that they can come here and testify, representing themselves. If it's not needed, why not just have it

anyway so that it's clear to everyone that they are an independent voice representing seniors in our State? Thank you, Mr. Speaker."

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

"Mr. Speaker, I also have reservations on this matter and I would like to adopt the words of the Minority Leader. In addition I believe this bill is unnecessary and I don't believe we want a law of this type on our books. 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. 2129, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELDER AFFAIRS," passed Third Reading by a vote of 47 ayes to 2 noes, with Representatives Finnegan and Meyer voting no, and with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1736-08) recommending that S.B. No. 2480, SD 2, HD 2, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 2480, 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 have reservations. Just to point out that currently, I realize that the money from TANF was taken out of the bill, but I still have reservations because it's actually asking for money from DHS for STEM. I don't quite know how those dots connect, so if you can just note my reservations on that."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2480, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TECHNOLOGY WORKFORCE AND DEVELOPMENT," passed Third Reading by a vote of 49 ayes, with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1737-08) recommending that S.B. No. 2202, 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. 2202, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PARTIAL PUBLIC FINANCING OF ELECTIONS," passed Third Reading by a vote of 49 ayes, with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1738-08) recommending that S.B. No. 651, 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. 651, 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. This is a bill dealing with the recycling of plastic bags and I'm rising in opposition for a lot of the same reasons that the Sierra Club had. I'm going to read from their testimony.

As it is currently written, the proposed Senate Bill 651, HD 2 simply requires certain stores to take back clean bags. This is a good thing. The customers are not required to take back their bags. Customers have little incentive to bring their bags back to the store

aside from the sense of environmental stewardship, and stores are not required to actually recycle the bags.

"In looking at the bill and it seems like a lot of busy work and a lot of expense. We're going to create a new program with the Department of Health. It is estimated it might cost about \$200,000 for the positions. The stores are going to have to send in reports for a minimum of three years. I'm not quite sure what they're reporting on. I guess they're going to have to count these bags to talk about how many bags that people are bringing back.

"And there are fines. I guess they can get fined because they don't send in reports. I'm not sure, but maybe they don't put out a receptacle for people to put their old bags in. And the fines are \$100 for the first violation; \$200 for the second violation; and \$500 for the third. And it doesn't call for any particular recycling. It doesn't say what they're doing with these bags. But I feel for these store people that have to count all these bags that come in. They're supposed to be clean. Some people are careful, some people not, and you know what meat does in a bag.

"I think that this is an expense. It's maybe the beginning of something greater, but just the way it is now I certainly can't support it."

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

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

"Thank you, Mr. Speaker. I too rise in opposition to this measure for different reasons than the Minority Floor Leader. With all due respect to the efforts of those Committees who were working on this in the House, and looking at ways in which we can curtail the use and the abuse, I guess, on the whole issue of plastic bags. The section that I have most difficulty with in this bill has to do with conflict in other laws.

"It appears to be fairly unnecessary to state that unless expressly authorized by this part, a county or other public agencies shall not adopt, implement or enforce any ordinance or rule, regulation that one, requires a store that is in compliance to collect or transport. So it appears as if this is somewhat redundant. I don't think it's necessary to restate that if a store is in compliance with what we're asking them, that a county cannot implement or enforce other ordinances.

"In addition I think that it is not correct, and I believe perhaps not legal to preempt the counties' abilities to do this. And so for that reason, I'm going to vote against this and request that further comments be inserted in the Journal. Thank you."

Representative Berg's written remarks are as follows:

"Mr. Speaker, I rise in opposition to SB 651 SD 2 HD 2.

"The language in this draft limits and pre-empts the ability of our county governments to work out solutions to the problems of plastic bags that best fit the needs of their local communities. While this proposed draft measure significantly departs from the original language and intent of the bill, it does little to curtail the use of oil-based plastic bags.

"The environmental problems associated with the wide-spread use of plastic bags are becoming monumental. Our public spaces, waterways, and oceans are being choked by our inability to manage an appropriate disposal method of plastic bags. The current draft of SB 651, SD2, HD2, appeases the retailers and food industry members by providing them a time-frame in which they can create plastic bag recycling programs. It also effectively limits the efforts of those who offer sound alternatives to plastic bags and pre-empts county efforts that provide opportunities for communities to work

authentically toward a sustainable environment and prosperous economy.

"The current language of this bill does not inform the stakeholders – citizens, government and business – on appropriate methods for recycling. Currently, consumers who regularly place their bags in the limited number of recycling containers are unaware of the real disposition of those bags and that those bags are routinely sent to the H-power facility to be incinerated.

"The definition of "store" further limits the recycling efforts by not requiring all retailers to participate in plastic bag recycling programs. It allows retailers to opt out of the requirements by claiming "financial hardship." In the current state of our economy, we can argue that most businesses can make a claim of financial hardship, and this argument becomes redundant.

"We have begun conversations, on a community and county level, regarding the important issues of consumer and business behavior on our environment. I hope that these discussions continue to move forward, and I believe this bill will bring a resounding halt to these important efforts.

"The most troubling amendment in the proposed SB 651, SD2, HD2, however, is the prohibition on public agencies and counties to adopt rules or ordinances that actually require the recycling of plastic bags or that impose a plastic bag usage surcharge. Policies initiated at the county level could be far more beneficial in reducing plastic bag waste and litter. This bill would disallow a county process and circumvent the opportunity for public input.

"I believe that Hawaii can join other cities and countries around the globe in offering leadership regarding self-sufficiency and thrive-ability – this bill sets us back, Mr. Speaker. Thank you."

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

"Thank you very much, Mr. Speaker. In support. Mr. Speaker in response to the previous speaker, the retail merchants and the retailers in general have stepped up and said that they want to implement a recycling program. The amendment that Finance put in to a put a timeline as to what the counties are looking at, trying to ban plastic bags, we set a time limit of two years that they have to come up with a program that is working.

"So I think this is a very good bill moving forward where we've allowed private sector to step up and come up with policies that will help our environment, and also allow the public to also step up and take responsibility in recycling their bags, with maybe government at this point setting the timeline and the framework of this policy. Thank you."

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

"Mr. Speaker, I rise with reservations on said bill, plastic bags. Mr. Speaker, I think the intention is well stated. The structure of the incentives need to be examined both for the consumer, as well as for the retailers. And without a properly thoughtful structure of incentives, I think this thing is going to go through as a mandate, and it's going to probably fall on its face unless it's sketched out in much more detail.

"I think it's a good discussion piece, but in terms of finalization, I think the Conference Committee and the timelines and the other referral things hopefully will give it a lot more thought. I think it really needs to be recycled at this moment. Thank you."

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

"Mr. Speaker, I rise with reservations and would like to adopt the words of the Representative of East Honolulu as my own. Thank you," and the Chair "so ordered." (By reference only.)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 651, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO RECYCLING," passed Third Reading by a vote of 43 ayes to 6 noes, with Representatives Belatti, Berg, Finnegan, Meyer, Shimabukuro and Takai voting no, and with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1745-08) recommending that S.B. No. 2864, 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. 2864, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 49 ayes, with Representatives Nakasone and Sagum being excused.

At 12:10 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2720, SD 2, HD 1
S.B. No. 2341, SD 1, HD 1
S.B. No. 2129, SD 2, HD 1
S.B. No. 2480, SD 2, HD 2
S.B. No. 2202, HD 1
S.B. No. 651, SD 2, HD 2
S.B. No. 2864, SD 2, HD 2

At 12:10 o'clock p.m., Representative Thielen requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:18 o'clock p.m.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1749-08) recommending that S.B. No. 2829, 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. 2829, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker and colleagues. I rise in opposition to Senate Bill 2829, HD 2. This measure requires the Department of Taxation to evaluate a plethora of tax credits and tax exemptions and report to the Legislature on whether these credits and exemptions should be continued, modified or permitted to expire. Next this measure provides for the automatic repeal of these credits and exemptions.

"I oppose this measure because it takes a sledge hammer to automatic repeal of credits and exemptions to fix a problem that requires a more precise and thoughtful approach. I appreciate the intention of the proponents of this bill who question the necessity of credits and exemptions, and who appear to want more uniformity, accountability and fairness injected into our tax system. However I think we must pay attention to testimony of agencies and organizations like the Department of Taxation, the Tax Foundation of Hawaii and the Chamber of Commerce of Hawaii who warn us about the danger of using an automatic repeal of tax incentives as a tool to reform the tax system.

"This automatic repeal will likely have a serious impact on businesses and the overall economy by creating volatility and uncertainty in the marketplace as businesses try to plan for the future. At a time when the nation is in the midst of a financial meltdown and our State is facing tough economic times, I think this measure, as well intentioned as it is, will have unintended consequences and a debilitating effect on our State.

"As a final note, it is curious to me that the general excise tax exemption for public utilities, motor carries and contract carriers, the general excise tax exemption for amounts received as salaries or wages for services rendered by an employee to an employer, the public service company tax credit for lifeline telephone service, and the ethanol facility tax credit were given a reprieve from the automatic repeal provision. What entitles the beneficiaries of these exemptions and credits at this time to be saved from the legislative sledge hammer in comparison to those beneficiaries, equally deserving entities that qualified for the low-income housing tax credit or exemptions as nonprofit charitable, scientific and educational organizations? Thank you, Mr. Speaker."

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

"My second time? Some things are equal, and some things are unequal. But I'll accept that because I'm only going to speak once against this particular measure which the previous speaker stated very well, except I would add Mr. Speaker, that businesses go where they are asked, but they stay where they are welcome. This is pulling the mat from underneath a lot of our businesses because some of the structure and the incentive is to bring them here is going to be pulled out from underneath them.

"Business, more so than even politicians, need predictability. When you put an investment in place, you have to be able to measure the risks against the benefits. But unless this is just an anti-business bill, let's look at who's going to be affected. Not only the high technology corporations, but also hospitals, homeless shelters, affordable housing, conference and conventions, trade shows, schools, nonprofits, medical and other insurance polices, pensions, employees. It's across the board; the baby out with the bath. All the good and the bad. The problem is that it gives automatic repeal dates for something that we should be a little more rational with. Why the repeal dates are in the bill, I have no idea. If we're going to study it and measure it; then that makes a lot of sense.

"Lastly Mr. Speaker, I would say if there's overwhelming support for this bill, we should really look at it. But for all of us in this room who've been elected, we know that the majority usually runs superior to the minority, and right now we've got almost 100 people who are opposed to this with one group for it. So if we talk about the will of the people in terms of what we want to do, and in terms of tax incentives, there's not one organization except for one in this whole State that is for this bill.

"What we've got to do is rethink this. We shouldn't throw the baby out with the bath. We should look at the real incentives that have brought real progress to this State, and not go backward by pretending that we're going forward. Thank you, Mr. Speaker."

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

"Mr. Speaker, in support. For those who suggested that this is a 'sledge hammer' approach, it's very difficult to get rid of a tax credit once it's been put in, or a tax deduction. I think at least a threat of a sledge hammer is probably necessary to make any progress on a bill like this.

"Just as a matter of simple economics, any tax deduction or tax credit is a distortion of the market because it reduces the cost of doing business for making a particular product or providing a particular kind of service. And I think every once and a while we

need to go out and look at all the exemptions and deductions and decide whether or not we still need to keep them in place and because there is a special, and almost by definition, there's a special interest backing each one of these deductions or exemptions you do have to have a sledge hammer approach.

"So I support the bill. I don't know if this is the final form it will end up in, but the concept is a good one. Mahalo."

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

"Thank you very much, Mr. Speaker. In support. And I'd like to adopt the words of the previous speaker as if they were my own. Mr. Speaker, this measure also came from the recommendation from the Tax Review Commission. Currently most tax credits or incentives that we put in place today had sunsets. These reviews are for measures or policies that we had put in place in the past that don't have a sunset. So as we go forward, and we know times have changed, and we know we need to look at our policies going forward, I think this is prudent to kind of look at our tax structure and see if it really is working for the benefit of the people of this community, Mr. Speaker. And just another note. It does not affect the high tech community. Thank you, very much."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2829, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 40 ayes to 9 noes, with Representatives Belatti, Berg, Bertram, Ching, Finnegan, Meyer, Pine, Thielen and Ward voting no, and with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1750-08) recommending that S.B. No. 2803, 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. 2803, SD 1, 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. I'm rising with some serious concerns. I'll be voting in support of this, but I think we ought to really rethink in today's era. I believe that there was an article in today's paper about the IRS and there's a concern that hackers are going to be able to get information they submitted when one files one's taxes as now required through the Internet.

"This bill would create a report, a one stop shop which would really be available for interested hackers who are trying to target personal information in Hawaii. And the problem I find is that any value in creating such a report is far outweighed by the risks that that new public report would have up there and available for hackers to access this personal information.

"So I would like to have, as this bill moves into Conference Committee, I would like to have the Conferees rethink this particularly when we're taking steps in other legislation to only allow the last four digits of Social Security numbers to be used. This may be a very imprudent way to proceed. Thank you."

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

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

Representative Karamatsu's written remarks are as follows:

"I rise in support. The purpose of this bill is to protect the personal information collected and maintained by State and county agencies through the implementation of the recommendations of the "Hawaii Identity Theft Task Force Report" of December 2007. I served on the taskforce and through this bill we hope to reduce identity theft. The bill:

- (1) Requires each state and county agency to designate an employee to ensure the agency's compliance with requirements relating to the security of personal information;
- (2) Establishes the Information and Privacy Security Council to be placed administratively within the Department of the Attorney General and appropriates funds for three staff analyst positions to support the Council;
- (3) Changes the effective date of Chapter 487J, Hawaii Revised Statutes, relating to social security number protection, to July 1, 2009;
- (4) Requires conditions on third party personal information use to be included in contracts between government agencies and third parties that provide support services on behalf of the agency;
- (5) Requires state and county agencies responsible for human resource functions to develop and distribute to agencies, guidelines to minimize unauthorized access to personal information;
- (6) Requires state and government agencies to develop a written policy regarding notification of security breaches of personal information; and
- (7) Defines the terms: "government agency," "personal information," "personal information system," "records," and "security breach."

"The current draft of this bill was amended to take out the requirement that:

- (5) Requires state and county agencies that collect, maintain, or disseminate documents with personal information to:
 - (A) Develop and implement a plan to protect the personal information; and
 - (B) Develop a written plan to eliminate unnecessary collection and use of social security numbers;

"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. 2803, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PERSONAL INFORMATION," passed Third Reading by a vote of 49 ayes, with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1751-08) recommending that S.B. No. 3165, 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. 3165, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. I rise with reservations on Senate Bill 3165, SD 2, HD 2. Thank you, I'll be very brief. I guess in light of the bill we just previously spoke on which would ax out and remove many of these tax exemptions and tax credits. Here with this bill,

what we're doing is implementing a tax exemption that appears to be premature in light of the fact that we don't have the details of the transit route and the system has not been finalized.

"I'd like to quote testimony from the City and County of Honolulu which says: 'We're not against these types of tax exemptions, but financial tools and incentives should be considered broadly and in the context of the community needs and wants in transit oriented development projects in specific neighborhood.'

"In light of that, I just stand with reservations and I hope as this moves forward we look more closely at all the financial incentives that could be implemented at DOT and that would consult with the City and County of Honolulu. Thank you, very much."

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

"Mr. Speaker, I am in opposition to this measure for the same reasons stated by the previous speaker. I agree with her that I'm not sure this is the right time for the measure. It is probably premature since details of the mass transit project have yet to be finalized. I don't think I have a problem with granting a GET exemption to community healthcare facilities, but housing projects may require more scrutiny.

"I'm not sure that this legislation is even necessary because there already exists the GET exemption for affordable rental housing projects certified under HRS 201G-116. Those projects are already exempt in the GET under HRS 237-29. According to the Department of Taxation testimony, there is nothing to suggest that the current exemptions could not be extended to these projects if they were determined acceptable by the housing agencies. This type of mixed use housing project may also be exempt under Chapter 206-E, so perhaps this measure is unnecessary. Please know that the planning, design, sale and lease of these health facilities and affordable housing units are also exempt from the GET. So I ask for your closest scrutiny of this bill and urge my colleagues to vote no. Thank you."

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 rise in strong support of SB 3165, SD2, HD2, relating to General Excise Tax exemptions for mixed-use transit-oriented joint development projects that provide affordable housing and community health care facilities.

"I realize that building a transit system is an expensive proposition. Our taxpayers have already begun to pay through the increased GET earmarked for Oahu's proposed transit—even though it is years before we will see such a system in operation.

"For this reason, I am pleased that this bill prohibits counties from exempting any and all joint development projects that might be proposed in conjunction with transit. I am even more pleased that the bill does provide exemptions for two types of projects that are sorely needed throughout our State, but particularly in urban areas that will be served by mass transit.

"In short, mass transit implies more than transportation issues alone. It will strongly impact housing and healthcare. Hopefully the impact will be favorable, if done properly and with sufficient advance planning. This bill provides an opportunity to look to the future. It gives the City & County of Honolulu a chance to serve our low- and middle-income, and elderly Hawaii residents – and to avoid over-commercialization and the proliferation of luxury housing for wealthy and out-of-state owners."

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

"In support. Mr. Speaker, there were several objections and let me try to address them quickly. First the Representative from District 25 makes a very good critique of my position, but I don't think it's inconsistent. My support from the two bills previous is based on the fact that a lot of these exemptions have been around forever and no one's really questioned whether they're still useful or not. The exemption that would be offered here would help our society provide two very important things: affordable housing, and healthcare especially for our *kupuna*. The fact that the transit route has not been finalized is why we need to do this now.

"What happens when the transit route is finalized is when the speculation begins and as soon as the speculation begins the prices go up and pretty soon all you have are wealthy people living along transit lines because it's more convenient. What this bill hopes to do is lock in some affordable housing on the transit lines because a transit line is the best place to put affordable housing because people who are poor are the most likely to give up their cars and use transit and they're the ones that need to do that the most because of their financial situation. So the fact that it's not finalized is an argument in favor of this bill, not against it.

"The prematurity argument is essentially the same thing. It's not premature because as soon as the transit stops are proverbially set in concrete, land speculation begins and the tendency on all of the projects of this nature on the mainland and other countries is that the transit line makes it a prime piece of real estate and people who need affordable housing lose out. So it's not premature.

"With regard to it not being necessary, it is true that there are already provisions for both the County and the State to build affordable housing and you do need GET exemptions for that, but that's not what this bill does. First of all it adds community healthcare, which is not currently available as far as I know. But this bill is a bigger carrot than that. It would exempt the entire project, a TOD, transit orient development project would exempt the entire project from GET. So if you have a \$100 million project and only \$50 million of it is housing or healthcare, then the entire project is exempt from that and that's a bigger carrot and in the environment that we seem to be operating in terms of building affordable housing, it is a necessary one. Mahalo."

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

"Mr. Speaker I am rising in opposition to this measure. At the Department of Planning and Permitting, their primary concern is that this bill is premature and an infringement on homerule, and that's a concern of mine. This bill interferes with the free flow of development ideas offered by the community under a community based planning effort and does nothing to compliment the transit oriented development. Rather it is an attempt to dictate and/or impose uses in our transit development as evidence by section 3 of the bill that prohibits the counties from granting GET exemptions to mixed use transit oriented joint developments.

"I guess my biggest concern is on the homerule issue. The whole transit thing is homerule and most of the land on the side of the stops will be City and County and this is sort of like a mini HCDH, where the State just decides what can be done in certain areas even though it is something that is usually under the purview of the City and County of Honolulu. Thank you."

Representative Rhoads rose to respond, stating:

"Mr. Speaker, still in support. Just a quick rebuttal on the homerule issue. Despite the admittedly confusing legalese in the bill, this measure does require the County to approve any of these TOD projects. So the county is not cut out of it. On the contrary, the county is explicitly included and they have to approve the project. Mahalo."

Representative Belatti rose to respond, stating:

"Thank you, Mr. Speaker. Just a quick rebuttal to my neighbor and colleague of District 26. I just wanted to say again that my reservations are with respect to applying this singular tax exemption at this time. I do agree that we need to look at these financial tools to encourage development of healthcare facilities and affordable housing, but if that's the case, then let's talk about requirements of affordable housing along transit oriented development or any other number of measures and not simply this one measure.

"And one last point in rebuttal. Speculation is going on now as we speak with regard to lots of properties along lots of proposed rail transit lines, so with that argument in support of this I don't believe that. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3165, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 46 ayes to 3 noes, with Representatives Bertram, Marumoto and Meyer voting no, and with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1753-08) recommending that S.B. No. 2828, 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. 2828, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, I'm rising to speak against this bill. Mr. Speaker what this bill does is tie the hands of the Governor at a time when she most will be needed by the people of Hawaii to be able to act quickly and decisively. Instead the bill says that in case of an emergency, the Governor will have to stop, find and declare through an Emergency Proclamation that tangible and measureable harm or damage has resulted, and that would be obvious to anyone with common sense, which this bill lacks. Anyway, tangible and measurable harm has resulted, or is about to result as a consequence of a disaster and that the disaster relief can't be achieved through legislation enacted in the next Session or in a Special Session called by the Governor. I mean, that's just stupid.

"In my mind, when you have an emergency and you have a leader of this State that was elected by the people to be in charge and to be able to act in an emergency, we have no business tying her hands and saying she has to first create this Proclamation and ask us for permission to be able to go ahead and act. I mean it's just absolutely foolish.

"The other thing that is very disturbing about this bill, there are certain areas carved out where she's going to be allowed to act, but there's not an area where there's an emergency and the Governor would need to, for example, transport time-sensitive medicine supplies to the Neighbor Islands in a case where other planes are not flying and she would have to bring in the National Guard to do it. That's not one of the emergencies.

"A big problem about saying, 'Well, wait a minute. We'll allow her to act when there are these five different things, but nothing else is included.' That's pretty foolish because we will not have covered all of the emergencies, and when you look at the bill you realize they aren't all covered. We may have a massive blackout. We may have bridge collapses. We may have massive sewage spills. All of these will then say to the Governor, those are not one of the categories where you can go ahead and use your emergency powers. You have to come back and ask us, issue a Proclamation, and bring us into Special Session. Or if we're in the Regular Session, then come to us

to say, 'May I?' Well that's no way to run a State. That's no way to keep our people safe.

"But the cruelest thing in this bill is, were this bill to pass and stand, it shuts down the homeless shelters. We had quite a discussion a few weeks ago on this bill, and the idea that the Majority side, you all said that the Governor should not have treated homelessness as an emergency. So now you're really driving a nail into the coffin. You're shutting down the homeless shelters upon the enactment of the legislation. And not only is that cruel, I think it's reprehensible.

"Those shelters were put up by the Governor to deal with an emergency situation. The Next Step shelters have helped people throughout our community that needed help, and they've given them dignity. And now the Majority wants to shut them down, handcuff the Governor, prevent her from being able to help the people of Hawaii immediately when there are emergencies and use her authority as the Executive, duly elected by an overwhelming majority; the Executive of our State. And you all now want to slap her down and prevent her from acting as the leader of our State. I believe you all should be ashamed."

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

"Mr. Speaker, I rise in opposition to this measure. As the previous speaker stated, this is clearly the example of an irrational fear of Lingle, IFL-phobia. As I said there was one before, this is second case of IFL-phobia. But it's perhaps the biggest bout of all because it puts us, the Legislature, first, before the people of Hawaii in an emergency. And I think regardless of the political advantage you get from that, that's not right public policy.

"As the bill is written, right now, falling rocks serve as an emergency. Falling rocks, not homelessness. We're putting rocks ahead of people. As my colleague also indicated, if perchance Aloha Airlines Cargo shuts down, and many colleagues from the Neighbor Island who depend on their food, their everything, from medicine to their basic lifeline through cargo. If Aloha Airlines and all their cargo ceases, the Governor, and say we're not in Session, would have to have a state of emergency declared. Would she then wait for us to do that, or would she put the people first? I think you and I know the Governor well enough that she would put the people first.

"But this bill is putting us first instead of the people of Hawaii, Mr. Speaker. That's what's wrong. It's bad policy. Again as I said, let's count to seven. Take a deep breath. Let the Governor govern, and let this kind of legislation that's a tit for the tat politically, go away, especially in these disaster relief situations. Thank you."

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

"Thank you, Mr. Speaker. After much deliberation, I would like to speak against this measure. With due respect to the Chairman of Public Safety, the intent is very good, however I think it's misdirected. In the case of emergency, you don't have the time for issuing Proclamations and calling the Legislature in Session. You need to act right away.

"So Mr. Speaker, in order to save some time, I wonder if you would mind me incorporating the remarks of the Representative from Kailua, with the exception of the part about being reprehensible. I don't think the members of the Majority are reprehensible. I think the intent was good, however possibly misdirected. Thank you, very much."

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

"Thank you, Mr. Speaker. In opposition. And to save everyone's time that is precious, and because the remarks of the Speaker Emeritus are to the point, I'd like to adopt his words as if they were

my own. Thank you," and the Chair "so ordered." (By reference only.)

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

"Mr. Speaker, I rise in support. And we've heard a lot of emotion on this issue and I'd like to preface my remarks with, 'Let's ramp it down a bit on the rhetoric, and let's talk about what the bill is about.' Read the bill and see what it is we're trying to do.

"There's not a person in these Chambers Mr. Speaker, who doesn't recognize the seriousness and the human suffering from homelessness, as an issue. We've all fought together on many fronts to try to address this issue and the Majority, over the past couple of Sessions, has made it part of a Majority Package. The Chair of Human Services has worked very hard to try to address the issue. And unfortunately we all, all of us in this Body, have a lifetime of battle in front of us to deal with this issue. I want to say thank you and mahalo, to all of us here for our collective efforts, and our hearts and minds, in trying to address the homeless issue. It's a sad, long-term, on-going problem that we need to address and work with the Governor on, and with each other.

"But this measure, Mr. Speaker, is not about homelessness. It's just not. It's about the proper use of emergency powers and the integrity of our checks and balances system. We need to remember that we're the Legislative branch, not the Executive branch. This is not about the fear of the Governor. It's about our duties as the Legislative branch of government. More importantly, this bill continues to support the Governor's powers to respond to disasters. It does not take away her powers. Existing State law in disasters includes conditions caused by fire, flood, tidal wave, volcanic eruption, pandemic illness, earthquakes and other natural causes. And it also addresses man-made disasters such as massive oil spills, nuclear accidents, airplane crashes, civil disturbances, enemy attacks and acts of terrorism. It covers about everything possible that we can imagine.

"So let us be clear. This bill will continue to provide the Governor with the powers needed to manage disaster relief. It does not take away those powers. This measure will also mandate the Governor to include one additional finding in the Emergency Proclamation for any disaster not caused by an enemy attack. It's something the Governor does every time she declares a disaster. She makes findings and we're asking her to make one more finding. This finding is that the disaster has caused tangible and measurable harm, and that disaster relief could not otherwise be achieved through the Legislature in Regular or Special Legislative Session. She just needs to make that finding her Proclamation.

"And remember, the Governor can convene a Special Session at any time, if for some reason she wanted to have it addressed through policy. That is all we're talking about here. Nothing more, nothing less. One additional finding in the Emergency Proclamation that is currently required to be issued for any disaster relief. The Governor must already make these specific findings as mentioned. Nothing in this bill would impair the Governor's authority to respond to any disaster when conditions rise to the level of true emergency such as a nuclear accident on a sub in Pearl Harbor, or major oil spill. The Governor will continue to be able to suspend any law that impedes, or tends to impede the expeditious and efficient execution of disaster relief. These suspensions would typically include waiving environmental laws, bid requirements, procurement laws, and legal notices in the event of a disaster such as a hurricane or major oil spill. The Governor will continue to have the extra powers to protect life and property in the State of Hawaii.

"I explain all of this because there are many other serious conditions that can exist, that do not rise to the level of the disasters that I mentioned. It doesn't mean these conditions aren't critical, Mr. Speaker. These situations most likely exist because of the serious long-standing societal problems ranging from the degeneration of our public housing, to homelessness, to in some cases overcrowded

classrooms. Serious as these problems are, they are multi-faceted and must be dealt with through planning functions of the Executive branch and the Legislative branch, and we try to do that every Session. We all work on it.

"If this specific law, such as those for environmental protection, government procurement or legal notice have become barriers to good government that prevent government from doing its job, then these laws should be corrected, not abandoned.

"In closing, this bill merely requires the Governor to include one additional finding when issuing a disaster proclamation. The Governor need only to determine that the disaster could not have been managed through normal Executive and Legislative processes. The bill incorporates the principles of checks and balances Mr. Speaker, and the separation of powers that we need hold so dear and we continue to need to enforce without unreasonably impeding the Governor's ability to swiftly respond to true disasters. Thank you, Mr. Speaker. I urge our colleagues to support this measure. Thank you."

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

"Thank you, very much. In strong support. This bill and the previous bill that also deals with the prevailing wage, and also dealing with this particular section of our laws in sections 127 and 128. I do agree with the Majority Leader. This is not a means in any way to minimize the issues of homelessness. However it is actually this body that has to decide the definition that we must give to what is homelessness. Some of us strongly believe that this falls as an emergency under 127 and 128, and maybe it does rise to that level. But are we ready to accept that so readily, or can we debate it. That's what we're doing.

"I believe that emergency situations do not include homelessness. Homelessness is found everywhere. My son just took a trip to Greece and he told me that a society as old as Greece still has graffiti and homelessness, and lots of it. He happened to be there during a time of a labor dispute also and there's garbage all over the place. That's not the kind of picture that we normally think of with Greece. We look at Greece historically as a leader, with beautiful cities and art, and politics. So homelessness is not a dirty word, and it is not necessarily a bad thing.

"And it's not really stupid to question whether or not this is an emergency. I don't think I'm being stupid. I think that there's a lot of opinions out there in the community, as well as this Chamber. And I think we should be allowed to express them without being labeled as such. It's unfortunate that we have to sit here and listen to that garbage talk, and that's why I'm standing up. I wasn't going to stand on this, but I also strongly believe that the Governor, the way she handled the situation of the homelessness, was acting under the guise of an emergency in order to accomplish policy goals that she wanted to accomplish in circumventing the process, which is the Legislative process, to address the issue of homelessness. And that is the reason why this bill is here.

"People complain, people out there who are constituents. These people are directly impacted by her decision to label homelessness as an emergency under sections 127 and 128. I think she's wrong, and I believe those people who are proponents of this measure also believe the same thing. Homelessness will be with us, with or without this emergency action done by Governor. I think it's going to be a continual problem.

"As the Majority Leader stated, this measure does not handcuff her. It does not label homelessness as any less of a social issue and policy that we must continue to work at. It merely says that when she does declare an emergency, and again, she does have to declare an emergency, she has to proclaim it according to sections 127 and 128. The previous speaker I believe, believed that making a Proclamation is something you don't have to do when there's an emergency

situation, and that's wrong. When an emergency occurs, the Governor must proclaim it. This bill adds one line that says that it must be noted in the Proclamation that it is a situation that cannot otherwise be achieved through legislation enacted in the next occurring Legislative Session. I agree with the Majority Leader in this case. Thank you, very much."

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

"Mr. Speaker, thank you. I am in support of this measure. To move everything along, I'd just like to make a couple of points.

"First of all, this measure does provide accountability for the Legislative branch to review the emergency declarations issued by the Governor so that the Proclamation will lapse at the following Regular Session, unless extended by the Legislature through an enactment of law or by Concurrent Resolution. In other words Mr. Speaker, this gives us the opportunity, let's say this particular Session to review the last Emergency Proclamation of the Governor to agree with her or disagree with her, and if we do agree with her to issue, by a Concurrent Resolution a support for the emergency declaration, and allow for the extension of it.

"And say the termination date for emergency declaration allows us to reexamine the assets of the State that are being used to address the emergency, and also the transfer of any monies that might have been appropriated per the emergency declaration. And I think in this particular instance, considering what is going on, on the Leeward Coast, the Proclamation that was issued three times, now on its third leg of its powers, and in particular the Maili Homeless Shelter. I think the Administration would welcome this provision that allows us to support them and their endeavors on the Leeward Coast.

"I also think that we need to not forget that these powers that are before us are legislative appropriation powers, and certainly as your Finance Committee Chair, I do recognize the responsibility that we have vis-à-vis the Executive budget, to pay attention to the expenditure of public monies and the use of those monies.

"Under the emergency powers, the Governor can go and set aside procurement laws, land use laws, health permitting laws, and even county ordinances, to name a few. When you look at the facts Mr. Speaker, that the Governor did use these powers to divert some of the prior legislative appropriations that we made to the Employee Union Trust Fund and that occurred October 2006 through December 2007. And I think these facts alone indicate that this issue of homelessness, if it was a true emergency according to the Governor, she should have come to us in the last Session, the 2007 Regular Session, to seek specific appropriations for this purpose.

"In fact the biggest transfer of \$8.9 million occurred April 20, 2007, just about a year ago. And I believe back then we were still in Session. We were probably going into Conference at that time. And at that point in time, it could have been taken up as an emergency appropriation request for that fiscal year. And all the issues regarding the development and land transfer issues of the Maili Transitional Homeless Shelter, could have, or should have been addressed by us.

"And I mention this Mr. Speaker, only to bring to light what I learned over the last several weeks. Maybe even the Minority Caucus was kept in the dark of these transfers. The transfer was made for \$8,955,000 from the EUTF Fund on April 20, 2007. An additional \$800,000 was transferred in August of 2007. And in December of 2007, a transfer of \$2 million, for a total last year of \$14.2 million under the Emergency Proclamation.

"Let's focus on the Maili Homeless Shelter and why it's relevant to discussion right now. When she issued this Proclamation, she was able to set aside certain laws regarding land use, ERS, procurement, health permits, water use, public hearing requirements, just to name a few."

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

Representative M. Oshiro continued, stating:

"This past summer, the Finance Committee had the opportunity to tour various sites throughout the State. In December of last year, we did go out to the Leeward Coast to visit some of the homeless transitional shelters and facilities. And when we went out there to Kalaeloa, we did meet with 'head czar' of the homeless efforts out there and we did speak to them about the different projects going on out there. And one of projects they did bring to mind was the Maili Homeless Shelter and the status of the facility. They were boasting that it was brought about by the Emergency Proclamations, that in nine months it was up and running, and that they've addressed several of the needs of the community.

"Interestingly Mr. Speaker, about three weeks ago, last March, I met with the Governor's Chief of Staff, Russ Saito, and a member of the Governor's Office and we did talk about the problems that they're facing out in Maili right now. Let me just kind of highlight a few of them.

"First of all, the parcel of land that the shelter was built upon is currently under the management of the Voice of America and it's a federal entity under the federal government. The idea is that now it is going to be transferred to Department of Land and Natural Resources from the federal government. And then the Department of Land and Natural Resources will then transfer the parcel to the Department of Hawaiian Homelands for the purposes of the beneficiaries. And the Department of Hawaiian Homelands working with the Department of Land and Natural Resources was going to receive transfer property, Molokai High School property on the Island of Molokai. And then ultimately the Department of Hawaiian Homelands was going to assume control of the parcel and develop the parcel on behalf of the Department of Hawaiian Homelands beneficiaries.

"I don't believe any of that has happened to this day. But because of the Governor's actions Mr. Speaker, and the use or abuse of these emergency powers, these are some of the things I do know. Some of the people in the community are not happy for they are not involved in discussion on the siting of this homeless facility in their backyard.

"Number two, I believe that there is some unhappiness with the DHHL beneficiaries who were not consulted in the use of their lands. And further Mr. Speaker, what would happen when the emergency powers under the Proclamations expires June 30, 2008? A concern that I heard from the Administration is that because the sitting Senator in that area, and some of the members of the Hawaiian Homestead community oppose the project, they may take it to court and shut it down.

"So Mr. Speaker, I look at this bill and this measure and the Concurrent Resolution authority therein, to actually maybe help the Governor finish this project. For these reasons, I stand in strong support. Thank you."

Representative Souki rose to respond, stating:

"Mr. Speaker, I find it very distasteful that I must speak against some of the Majority leaders. But this body, especially the Majority, must understand that Parties and Governors come and go. Who is in power should not be the consideration. The consideration is what is the most expeditious way of handling this. Yes, we could have handled it in an emergency funding, but Members, if you would look at the bill there is emergency funding right now that has not passed this body yet, and that came out early in the Session. Where's the expediting on that?

"My understanding is on the Big Island, they're ready to go bankrupt at the hospitals, and they still don't have emergency appropriations. So what I am asking this body here is to look within yourself, and look into the possibilities of: Am I being intrusive?

What is best for the State? Yes, the homeless project maybe was handled incorrectly. However that's rather petty if we're going to be looking at the major issue to come up with a bill of this nature. I don't want the State to look at us as really spiteful because of action that was taken. So let's re-examine ourselves, and again my apologies to the Majority. Thank you, very much."

The Chair then stated:

"Before we proceed, Members we've had a lot of discussion. It's been 30 minutes, so if you are going to speak further, please confine your discussion to things that have not already been brought up."

Representative Rhoads rose to respond, stating:

"Mr. Speaker, very quickly in support. I think it's clear that the Republican party has controlled Congress until recently, and the President of the United States ..."

Representative Thielen rose, stating:

"Mr. Speaker that has absolutely nothing to do with the bill."

Representative Rhoads: "I have the floor, Mr. Speaker. It has everything to do with the bill."

Vice Speaker Chong: "Representative Thielen, the Chair has called on Representative Rhoads to make his connection ."

Representative Thielen: "That has nothing to do with the bill."

Representative Rhoads: "Yes it does."

Vice Speaker Chong: "Representative Thielen, please sit down."

Representative Thielen: "It's the people here in Hawaii, and it's the Democrat Party ..."

Vice Speaker Chong: "Representative Thielen, please sit down. Representative Rhoads, please proceed."

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

"Point of order, Mr. Speaker. You've made a ruling."

Representative Rhoads: "Mr. Speaker, obviously the President of the United States and the Republicans in Congress did not see this as an emergency because if they had, they would not have ..."

Representative Thielen: "Mr. Speaker, the President of the United States has nothing to do with this bill ..."

Vice Speaker Chong: "Representative Thielen, please sit down."

At 1:03 o'clock p.m., Representative Souki requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:05 o'clock p.m.

Representative Rhoads: "Mr. Speaker, I was just going to make the point that the Republicans in Congress and President Bush have systematically cut the budget from the Department of Housing and Urban Development, and if they hadn't done that, it probably ..."

Representative Thielen: "Mr. Speaker, this has nothing to do with the bill..."

Vice Speaker Chong: "Representative Thielen, you're out of order. Please sit down."

Representative Rhoads: "It's quite possible there wouldn't have been a need for the Governor of this State to declare an emergency for housing because the Department of Housing and Urban Development's mission is to build housing for those that need it the most. Mahalo."

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

"In opposition, and definitely in rebuttal. I don't know any Republican in Congress. I don't think I've met a Democrat in Congress except Abercrombie, but I see all the Democrats here that are causing this problem against homelessness. I can only affect here. And this is about homelessness because people have already said they disagree with how the Governor handled it. So when we say we're due for checks and balances of our government, I'm sorry I see no check on us. This super Majority has prevented us from doing really great things for Hawaii.

"It's been said earlier that it is not an emergency if it can be fixed, a problem can be fixed, by planned actions of the Legislature. As I mentioned earlier, I disclosed a conflict because I work with a homeless shelter. I can tell you from the people that I see and that I know everyday, and they came to this Legislature saying that you need to plan and take action on the homeless problem because we're going to have a very huge problem.

"Before I took office, Hao Bush or Oneula Beach Park, there were 200 people living in the bushes and they took over our parks and many of us wanted to help them, those that wanted to be helped. But we had no place to put them. All the shelters were overlooked. And sadly the crime element went into those communities and preyed on those people and caused even bigger problems for us. We're finding needles and drugs on the beaches where kids played. We're finding feces all over causing health problems.

"Let me tell you about some of the people that I've met in my other profession. I've met so many single mothers who lost their jobs for whatever reason. It had nothing to do with President Bush or Republicans there. She had no place to go because it had everything to do with this Legislature, this Democrat Legislature failing to provide funding so that she could have housing. And you know what? This one lady, she was given a free scholarship and she's going to college now. She has a locked room where she and her children can be safe instead of on the beach where all the drug dealers are at, and she's so happy. So you can disagree with how the Governor appropriated the money, it was completely legal.

"My grandmother is neighbors with former Lieutenant Governor who the law school is named after, William Richardson, and she'd tell me stories when our State was founded and she talked about that first Constitutional Convention and how they were really for creating a government that was balanced, truly balanced and a government that really put the people first. This measure, according to a student, would say that this does not put the people first. It puts politics first. I looked into the Constitution of the State of Hawaii and what powers that they give the Governor to expend money. It really doesn't even say disasters, it says: 'no public money shall be expended except pursued to appropriations made by law except when the Governor publically declares that public health, safety or welfare dispersing as provided by law.'

"I would say that my community, that the health, safety and welfare of a lot of people were threatened, when this Legislature, this Democrat Majority Legislature failed to act to provide them homes."

Representative Ward rose, stating:

"Mr. Speaker, a point of information. Would the Majority Leader submit to a question regarding this bill?"

The Chair addressed Representative Caldwell who responded,

"No."

Representative Meyer rose to respond, stating:

"I just wanted to respond to some comments made by the Representative from Waipahu that I take great exception to when he indicated that the word, 'reprehensible' was garbage talk. Reprehensible is a perfectly fine word. It's just an opinion, that this is unfortunate. Another word that the Speaker Emeritus used was that he felt this bill was misguided or misdirected.

"Our Member said, 'reprehensible', and I don't think any of those words that I've just said are garbage talk, and so I thought it was a very poor choice of words on his part. Thank you, Mr. Speaker."

The Chair then stated:

"Members, we've had a lot of discussion so the Chair is going to ask that anyone, from now on, submit written comments."

Representative Finnegan rose, stating:

"Mr. Speaker I didn't have a chance to speak on this bill and I would like some short comments in rebuttal. This would be my first time. Thank you, Mr. Speaker.

"This bill definitely concerns me because I do see it from the public safety issue from what people are saying from the outside in regard to responding to an emergency, and I think that this bill does not help the public in emergency situations. Having said that, I wanted to make sure that the Majority is fully aware that the construction and planning of shelters will stop, and the shelter in Maili will be brought to a standstill. You have accomplished what you wanted to accomplish. All who think you need this bill continue to work with that, these things will stop. If you want them, if you think that decision is the decision of things you want to prevent, those things are being prevented right now without taking the emergency powers away from the Governor.

"Mr. Speaker, this is a sad occasion for me, as much as possible. Even as the Minority Leader, I try to stay away from what I think is the politics of a situation, the negative term in which the public sees it. And by bringing up the Republicans in Congress, and by bringing up the Bush cuts in the housing arena, and by stating that this is what the Legislature is supposed to do, but the Governor went and didn't allow the Legislature to do this, it's moving on the road of a power grab or has that feeling, I would because that's what I'm feeling right now. And I would just want to boost the idea of staying outside of politics in the negative term and stick to what is best for the people of Hawaii. And I want to commend the former speaker for saying that."

Representative Sonson rose, stating:

"Just for clarification, and still in support. I apologize if someone heard me say that word, 'reprehensible' is garbage. I actually meant to say, and if I didn't say it, I meant that the word, 'stupid' was garbage talk. I think that's what I meant. If I misspoke, I apologize for those who heard me wrong. Thank you."

Representative Cabanilla rose, stating:

"I apologize Mr. Speaker, but I would like to speak."

Vice Speaker Chong:

"Written comments only please. We need to move on. It's 1:15. Would you like to insert written comments in support or against?"

Representative Cabanilla responded, stating:

"No, that's okay, Mr. Speaker."

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

Representative Awana's written remarks are as follows:

"Mr. Speaker, I rise in support with reservations. When collaboration is possible, the outcome is that of this measure. It allows the Executive Branch to utilize their powers while being cognizant of the Legislative Branch and its process in also providing remedial assistance in times of disaster relief.

"The concerns that I have relate to ongoing projects which may be jeopardized or suspended, initiated by an Emergency Proclamation, but not completed by the Proclamation expiration date. Thank you, Mr. Speaker."

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

Representative Evans' written remarks are as follows:

"Mr. Speaker, I'm in support and have some comments. From my own experience with a natural disaster in West Hawaii, I know how important the Governor's emergency proclamation is. In fact a wildfire came within 100 feet of homes and when the county called for an evacuation, there was only one way out of the community. In this instance the Governor chose not to declare an emergency and took the risk that another wildfire would not threaten Waikoloa. The community asked for an emergency proclamation; it did not happen.

"So what will this bill do? I believe the Legislature provides policy guidance. This bill will assist the Governor discern what is or is not an emergency. This bill does not, and I want to emphasize, does not keep the Governor from declaring an emergency. The authority remains with the Governor unless disaster relief could not otherwise be achieved through legislation enacted in the next occurring Regular Session of the Legislature or a Special Session of the Legislature called by the governor for the purpose of providing for the relief.

"Earlier in the Session there was a Floor debate in our House Chambers. The bill we are looking at today reflects the concerns mentioned. I believe they are good amendments which clearly sets policy on the remedying of periodic or longstanding societal inequities or circumstances that may arise over the course of time that could otherwise be contemplated and remedied through the enactment of law under the legislative process."

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2828, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO DISASTER RELIEF," passed Third Reading by a vote of 35 ayes to 14 noes, with Representatives Belatti, Berg, Bertram, Cabaniilla, Ching, Finnegan, Green, Marumoto, McKelvey, Meyer, Pine, Souki, Thielen and Ward voting no, and with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1754-08) recommending that S.B. No. 2569, 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. 2569, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE MUSEUM OF HAWAIIAN MUSIC

AND DANCE," passed Third Reading by a vote of 49 ayes, with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1755-08) recommending that S.B. No. 3138, 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. 3138, SD 1, HD 1, 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. With reservations. I believe that there is a DLNR report that is due later on this month, and in the interest of not wanting to expend more either resources or the Department's time or any other cost, that we take a look at that. It might be duplicative. Thank you."

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 stand in Strong Support of SB 3138, SD1, HD1, HSCR 1755.

"Mr. Speaker, this bill proposes to amend Act 6, SLH Special Session 2005, by requiring an interim report on the baseline environmental study of the Waianae Coast to be submitted to the 2008 Regular Session of the Legislature and the final report to the 2009 Regular Session; it appropriates moneys to the Department of Land and Natural Resources for continuing preparation for the study. I support this measure for several reasons.

"Mr. Speaker, to be perfectly frank, the purpose of this bill is to allocate more time for the DLNR to complete its baseline environmental study of the Waianae Coast. Previous testimony from those at the DLNR indicated that the final report would be completed by the end of the 2008 Regular Session. The Legislature has since learned that the completion of the final report is tentatively set for June of 2008 at the earliest. I applaud the Legislature for taking an initial response to concern regarding the future of the Waianae Coast, by enacting Act 6. In order to ensure that the study is done with the same attention to detail as proposed in Act 6, I urge the body to support this measure.

"Since the passing of Act 6, which requested a baseline environmental study of the Waianae Coast be conducted, local fishermen have grown to support this study and have aided in providing vital information to bring the study to a foregone conclusion. Unfortunately, this useful information has revealed relative gaps in crucial data, thus requiring additional research and testing to be administered.

"The results of a baseline environment study are of paramount concern to the communities along the Waianae Coast including the developing area of Kalaeloa, formerly known as Barber's Point. Kalaeloa is a community within my district that has marvelous plans to be a thriving place to live, work and play. This study will determine the future of Kalaeloa's smart growth.

"According to Act 6, in the 2005 Special Session, the Legislature "found it a matter of concern that along the Waianae coast, the growing population of west Oahu and the visitor industry are affecting the traditional uses of the area and are having cumulative economic, environmental, social, and cultural effects on the many communities along this coastline." The future of the Waianae Coast will be deeply impacted by population and subsequent economic growth.

"The significance of this study will determine appropriate action to both foster development of the area while implementing measures to ensure the vitality of our marine life and ocean resources. A study of this magnitude and importance certainly must not be rushed in order to meet an unrealistic deadline. Accordingly, I rise in strong support of the measure. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I rise in strong support. An Ocean Resource Management Area has been established for all areas of Oahu except for the area listed in this bill: Kalaeloa Point to Kaena Point. Currently there are no guidelines or regulations. Boaters and jet skis operate dangerously near surfers, fisherman, dolphins and endangered sea turtles. This measure helps to move along the process providing the baseline environmental study for our ocean recreation on the Waianae Coast. Thank you Mr. Speaker."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3138, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE WAIANAE COAST," passed Third Reading by a vote of 49 ayes, with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1756-08) recommending that S.B. No. 2198, 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. 2198, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

Representative Karamatsu's written remarks are as follows:

"I rise in support. This bill encourages the protection and preservation of land in the State by establishing a Land Conservation Incentives Tax Credit (Tax Credit).

"Specifically, this bill allows taxpayers to deduct 50 percent of the value of the interest in lands donated in perpetuity or sold in a bargain sale for conservation purposes to the State or a conservation agency; or 50 percent of the amount invested in the management of lands for conservation purposes under an agreement with a conservation purpose, up to \$2,500,000, from their net income tax liability. Thank you."

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. 2198, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LAND CONSERVATION," passed Third Reading by a vote of 49 ayes, with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1757-08) recommending that S.B. No. 2421, 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. 2421, SD 2, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, I just want to declare a potential conflict. The bank where my wife works is the trustee for Galbraith Trust, and my law partners are also beneficiaries of the Galbraith Trust," and the Chair ruled, "no conflict."

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

Representative Finnegan's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition of S.B. 2421, S.D. 1, H.D. 2 which authorizes the Governor to acquire lands owned by the Galbraith Estate in Central Oahu. According to the "Report on a Request to Establish a Task Force to Study the Feasibility of Establishing a Freshwater Fishery at the Wahiawa Reservoir, Oahu," prepared by the Department of Land and Natural Resources in 2003, it is documented that Task Force participants, including our esteemed Finance Chair, identified the Galbraith Estate as a piece of property the Wahiawa community would like the State to purchase, as they see its potential for increased commercial activities, such as tours, guides and park expansions, all of which I believe do not fall under Galbraith Estate's zoned AG-2 requirements.

"The Task Force also made mention of transferring the Galbraith Estate lands to the Housing and Community Development Corporation of Hawaii (HCDCH at the time) in DBEDT in order to expand the park, also an inappropriate use. Our housing agencies should be focusing on the development and management of affordable housing and taking care of our homeless, not administering a park.

"I am also deeply disturbed with the 2002 Task Force report's repeated mention of the increased liability for the reservoir and dam that sit on the Galbraith Estate. At one point the report actually states that, "once the State acquires the dam, the maintenance responsibility will also be the State's and the State does not have the money to maintain or improve the dam." This was four years ago and nothing has changed to date. The Administration has repeatedly cited their concerns about the liability in every single bill this Legislature has seen proposing to purchase the Galbraith Estate.

"Recently the Agri-business Development Corporation (ADC) conducted a study on the liability issues of Lake Wilson and the Wahiawa Dam confirming that the safety and liability issues pointed out time after time still have yet to be addressed.

"In Finance this bill was amended to provide the Governor with the same powers and "tool kit" that the Legislature provided in the form SB 2423, H.D. 1; to protect and preserve culturally valuable property in and around the Turtle Bay Hotel and Resort for the Turtle Bay purchase.

"However the Galbraith Estate and the Turtle Bay property differ greatly in the respect that the Galbraith Estate is already zoned as AG lands and therefore already under protection for preservation. Turtle Bay, on the other hand, is zoned as development lands and we have actually seen the viable threats to this last piece of "Old Hawaii". As the Governor said in her sixth State-of-the-State Address earlier this year, this is "a once-in-a-generation chance to preserve both a lifestyle for thousands of residents, and a part of Hawai'i that millions the world over have come to love and identify as the real Hawai'i."

"Furthermore, the Department of Land and Natural Resources believe that this proposed acquisition should be subject to the scrutiny of the Legacy Lands Conservation Commission in order to ensure that it is compatible with the State's priorities for acquiring valuable lands as established under Chapter 173A, Hawaii Revised Statutes.

"The State cannot and is not in the position to be purchasing every single significant piece of property in our legislative districts. The Galbraith Estate is in the position where it can be acquired and preserved as the community wants by private owners and State intercession is not necessary.

"We need to exercise fiscal prudence and make sure that we choose wise investments for our taxpayers' dollars' futures. At this time, with our economic condition as it is and the outside factors that I previously mentioned, I must oppose this bill. Thank you. Mr. Speaker."

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:

"Mr. Speaker, I rise in opposition to this bill.

"Mr. Speaker, we should not consider acquiring Galbraith Estate lands until there is resolution in the courts on the distribution of assets to the Estate's beneficiaries. According to testimony, many people, including the beneficiaries, have questioned the management and administration of the Estate by its current trustees, including the previous sale of Galbraith Estate lands.

"According to county records, the estimated value of the Galbraith Estate is \$100 million. DLNR has testified that they have concerns with the budgetary implications this bill will have on their budget. With our economy slowing, I don't believe this is the time to spend \$100 million for this property that has serious liability problems. Mahalo."

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

Representative Magaoay's written remarks are as follows:

"Thank you, Mr. Speaker. Mr. Speaker, I rise in support of Senate Bill 2421 SD2, HD1. Mr. Speaker, this piece of legislation proposes to appropriate funds for the acquisition of land in Wahiawa, Oahu, currently owned by the George Galbraith Estate, or to acquire the property through outright purchase, cooperative agreement, or exercise the State's power of eminent domain.

"The Galbraith Estate is comprised of 2,100 acres of agricultural-zoned land. These lands are made up of 20 individual contiguous parcels next to Wahiawa near Lake Wilson and Schofield Barracks. This Estate has some of the best and most productive agricultural lands in the State. If the State can purchase and manage these lands, we will ensure that agriculture in Hawaii will increase in productivity.

"As development pressures and urban sprawl increase on Oahu, our local community has become increasingly concerned about land use, food self-sufficiency and security, natural resource depletion, and economic dependency on imported food and products. The people of Hawaii have agreed that agricultural preservation and self-sufficiency are important and embodied these values in our State Constitution in article XI, Section 3 saying that, and I quote, "The State shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands."

"Mr. Speaker, urban development continues to encroach on agriculture, the State has a responsibility to help protect valuable agricultural-zoned lands from development and to preserve it for future agricultural production. 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. 2421, SD 2, HD 1,

entitled: "A BILL FOR AN ACT RELATING TO LAND ACQUISITION," passed Third Reading by a vote of 47 ayes to 2 noes, with Representatives Finnegan and Meyer voting no, and with Representatives Nakasone and Sagum being excused.

At 1:20 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2829, SD 2, HD 2
S.B. No. 2803, SD 1, HD 1
S.B. No. 3165, SD 2, HD 2
S.B. No. 2828, SD 2, HD 2
S.B. No. 2569, HD 1
S.B. No. 3138, SD 1, HD 1
S.B. No. 2198, SD 2, HD 2
S.B. No. 2421, SD 2, HD 1

At 1:20 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 3:22 o'clock p.m., with the Speaker presiding.

At this time the Chair announced:

"Members, at this time it is 3:23, and the Senate finished at 2:00. Let's try our best to finish by 5:30 for the next five pages."

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1759-08) recommending that S.B. No. 2646, 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. 2646, 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 am rising to speak against Senate Bill 2646, Relating to Important Agricultural Lands. Mr. Speaker it is because of part three, and I believe that we're looking at HD 2, is not providing a specific percentage. This is a concern because any housing allowed in the agricultural land is a slippery slope toward housing development.

"Under the current draft, housing can be built for the farmers' families and employees, which makes a lot of sense. But once you put that land into residential, then you are really ending up with more of an urban approach to agricultural lands. There's no limit on the specific number of houses that can be built, and there should be a sum certain per acre to ensure open space and agricultural districts. I know there's a great deal of effort to move all ag matters forward. I just think we need to be careful in not creating any urbanization areas on these lands. So at this point, I'm a no."

Representative Shimabukuro rose in opposition to 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:

"I stand in opposition to SB 2646, SD2, HD2.

"The intent of this bill is to provide incentives and protections to establish and sustain viable agricultural operations on important agricultural lands, or "IAL," and provides for the designation of IAL's on public lands.

"This bill provides tax relief for rental income for agricultural leases only, not for agricultural income. Why should it cover only

lease income? In that sense, it targets the wrong activity, or at least too little of the income generation directly attributable to agricultural activity. It favors the large landowners over small farmers.

"Will leases for biofuel, or GMO crop production be included, meaning the State will be subsidizing those activities that may not produce food, or questionable GMO crops that can cross pollinate with valuable food crops we grow and want to keep pure?"

"The provisions for farmer housing in this measure are too general. Extended family members can live on residences designated as IAL, something not allowed on regular agricultural lands.

"Part III allows residential housing on an unspecified percentage of lands deemed "important," which is contrary to our State's Constitutional charge to protect agricultural lands.

"The counties historically have been lax in defending the land use law and preventing rural sprawl on agricultural lands. Due to weak enforcement of agricultural land protection, farmland has been subject to the type of real estate speculation that drives up the price of land further out of reach for local residents and farmers. This measure will further weaken our protection of agricultural land and reduce public input.

"Additionally, SB 2646 repeals the tax credit for educational and training facilities at Ko Olina Resort and Makaha Resort for the benefit of the residents of the Wai'anae Coast.

"It is for these reasons that I stand in opposition of this measure."

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

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

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

Representative Karamatsu's written remarks are as follows:

"I rise in support. The purpose of this bill is to provide a comprehensive set of incentives to establish and sustain viable agricultural operations on lands designated as important agricultural lands (IALs). This bill, among other things:

- (1) Excludes income from certain agricultural leases on lands designated as IALs from the income tax;
- (2) Exempts income from certain agricultural leases on lands designated as IALs from the general excise tax (GET);
- (3) Allows landowners who have designated their agricultural lands as IALs to construct residential dwellings for farmers, employees, and their families on the IALs, subject to certain conditions;
- (4) Establishes an IAL Qualified Agricultural Cost Tax Credit (IAL Tax Credit) for qualified agricultural costs incurred by taxpayers, up to an unspecified maximum amount per year for each taxpayer;
- (5) Authorizes the Chairperson of the Board of Agriculture to guarantee agricultural loans for agricultural projects located on IALs;
- (6) Requires the Department of Agriculture (DOA) to include the water needs of IAL agricultural operations when developing the Water Use and Development Plan;

(7) Requires the priority processing of permit applications for agricultural processing facilities submitted by an agribusiness, where the majority of the agribusinesses' lands are designated as IALs; and

(8) Requires:

(A) DOA and Department of Land and Natural Resources (DLNR) to collaborate to identify and map public lands that should be designated as IALs;

(B) The Land Use Commission to designate these lands as IALs; and

(C) Management of such lands to be transferred to DOA.

"Thank you."

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

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

Representative Awana's written remarks are as follows:

"Mr. Speaker, I rise in strong support.

"Our agricultural lands are in trouble. More and more ag lands are being zoned to provide housing. Housing which is necessary, but comes at a cost to increased importation of mainland and foreign food stocks. This bill is a step in the right direction. In addition, the provisions included help to ensure these lands continue to be used for the purposes intended. Thank you, Mr. Speaker."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2646, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO IMPORTANT AGRICULTURAL LANDS," passed Third Reading by a vote of 44 ayes to 5 noes, with Representatives Berg, Hanohano, Morita, Shimabukuro and Thielen voting no, and with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1762-08) recommending that S.B. No. 2055, 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. 2055, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO FAMILY COURT," passed Third Reading by a vote of 49 ayes, with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1765-08) recommending that S.B. No. 711, 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. 711, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 49 ayes, with Representatives Nakasone and Sagum being excused.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1768-08) recommending that S.B. No. 3103, 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. 3103, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ENDANGERED SPECIES," passed Third Reading by a vote of 48 ayes to 1 no, with Representative Thielen voting no, and Representatives Nakasone and Sagum being excused.

At 3:25 o'clock p.m., Representative B. Oshiro requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 3:30 o'clock p.m.

Representative Tsuji, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 1769-08) recommending that S.B. No. 958, 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. 958, SD 1, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

At this time, Representative Tsuji moved that S.B. No. 958, SD 1, HD 2, be recommitted to the Committee on Agriculture, seconded by Representative Brower.

The motion was put to vote by the Chair and carried, and S.B. No. 958, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO GENETICALLY MODIFIED ORGANISMS," was recommitted to the Committee on Agriculture, with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1773-08) recommending that S.B. No. 1780, 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. 1780, SD 2, 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 Meyer rose to speak in opposition to the measure, stating:

"Mr. Speaker I'm rising in opposition to this measure. This bill will move us in the opposite direction we need to go with collective bargaining. This bill would limit the duration of each collective bargaining unit to no longer than two years. When the bill was heard in Finance, not one testifier was in support of the legislation. If you look at the testimony from the Finance Committee, you can see that allowing the State to negotiate in multi-year contracts only benefits the State as a whole. But contracts for longer than two years would allow for labor stability and the ability to plan for long-term operations mandating a two-year duration for all public employee contracts would remove the parties flexibility in order to arrive at a mutually agreeable contract.

"Mr. Speaker, this is one of the few times I find myself agreeing with the unions. The Hawaii Firefighter Association testified against this bill because this measure usurps the ability of the employers to enter into mutually agreed terms with respect to the duration of the contract. I believe this bill is moving forward because of the multi-year contract the HSTA signed in 2007 with the State, and now they are trying to get rid of the drug testing requirement negotiated in their contracts. It appears that the Legislature is using this measure to get the HSTA out of a jam. I don't think we should use this bill to bail out one union because they negotiated poorly, and their members are not happy. Thank you, Mr. Speaker."

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

"Mr. Speaker, I rise in opposition to Senate Bill 1780 HD 2. This measure places an onerous condition on the collective bargaining process between public employers and public employees bargaining units such that agreements could not be for longer than a period of two years.

"I really appreciate the attempt of the advocates to reassert authority of this branch of government in the collective bargaining process. In fact, in the Finance Committee I voted with reservations on this bill because at that time I was persuaded by the line of questioning of my colleagues to identify the extent of our authority to impact the collective bargaining process. However after more reflection and further review of the submitted testimony, I've come to the position of agreeing with the many opponents of this measure that this draft unnecessarily limits the flexibility in designing compensation and benefit packages in the course of collective bargaining negotiations. It is highly unusual to have a measure where both employers and public employee unions are in agreement in their vehement opposition to the bill. In light of this opposition and the reactive nature to impinge on collective bargaining negotiations, I am in opposition to this measure. Thank you."

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

"Mr. Speaker, I rise in support. The reason why on this particular measure you wouldn't receive supportive testimony from other than the employers and the unions is clear. Only the employers and the unions are involved in the collective bargaining process. The rest of the branches here at the Legislature and the respective County Councils are not involved in the collective bargaining of the contracts. We get handed a bill after the Executive branch or the Mayors settle these matters with respective bargaining units.

"For example the police recently sided with the counties and that's a four year contract. Similarly with the firefighters who settled with the counties and the State in the four year contract. And I believe this summer the teachers, as well as the University professors, the United Public Workers and the Hawaii Government Employees Association will be sitting down to discuss and settle with the respective Executive officers. So that's the reason why we didn't receive any supportive testimony from them.

"But the point of this bill Mr. Speaker, and the reason it is before this body, is perhaps as a tool to educate all of us. The State Constitution, Article VII, Section 11, reads as follows: 'All the appropriations for which the source is general obligation bond funds or general funds shall be for specified periods. No such appropriation shall be made for a period exceeding three years ...'

"And that's the power of the purse that we have, but also the restriction so that we cannot bind the future Legislatures. And the reason this is appropriate right now, Mr. Speaker is that I don't want our public servants to be under the misguided belief that this Governor currently negotiating with them can enter into a multi-year binding biennial contract and force future Legislatures to pay on those contracts. Whether it be for four years or six years, there's no way we can bind future Legislatures.

"And in fact, I had a quick discussion with the head of the Office of Collective Bargaining and Managed Competition last night. She was frank enough to admit to me that there is a degree of uncertainty in this area. It is uncertain whether a partial funding by one Legislature is in fact, ratification of the terms and conditions of cost items within the collective bargaining contract and the arbitration award, so it binds future Legislatures. She suggested that I contact the Attorney General's Office.

"So that's where we are today, Mr. Speaker. But as far as I can read in the Constitution, we are limited in our powers and we are limited

in our appropriation powers, and we cannot bind any future Legislatures. So I just wanted to let everyone know that, and that the Administration should also know that, and keep that in mind when they sit down and bargain with our public workers. Thank you."

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

Representative Finnegan's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition of S.B. 1780, S.D. 2, H.D. 2 which requires the public employer and the exclusive representative for each bargaining unit to include provisions in their respective collective bargaining agreement that provide for a duration not exceeding two years.

"I think the reasoning behind changing collective bargaining agreements to no more than two years does not really make sense. Many of my colleagues do not think we should allow our unions to negotiate for longer contracts because we do not know what fiscal implications it will have on our future budgets or because collective bargaining agreements expire every two years. However, if you look at HRS Section 89-10, a bargaining agreement shall expire on June 30th of "EVERY" odd number year.

"Collective bargaining is a dynamic process and it involves two parties playing a game of "give and take" in order for everybody to compromise on what is best for each group. If we take away that flexibility, then both negotiating parties may not achieve the best deal available.

"Some of my colleagues argue that long-term agreements could have a negative fiscal impact on our State budget, but if you look at collective bargaining agreements; they are much more than just money. Money is just one part. One of the benefits of long-term agreements are they allow each group to plan for the future and that allows for better agreements between the parties because not all of the concessions by negotiating parties are affected by budget constraints. The University of Hawaii Professional Assembly and the Hawaii Fire Fighters Association have both benefited from long term collective bargaining agreements that they would have not had if they were limited to only two year agreements.

"I urge my colleagues to vote "NO" on this measure. Thank you, Mr. Speaker."

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

"Mr. Speaker, please note my reservations. I guess there is a defective date. I hope that it will have more airing out there. There's some work to be done. I certainly don't remember this measure going to my Committee and it does impact labor. But I apologize for not catching it."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1780, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT," passed Third Reading by a vote of 43 ayes to 6 noes, with Representatives Belatti, Finnegan, Marumoto, Meyer, Pine and Thielen voting no, and with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1774-08) recommending that S.B. No. 2334, 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. 2334, SD 2, HD 1, 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:

"Mr. Speaker, I rise in support with reservations.

"This bill would eliminate the ability of the Governor and the Director of Public Safety to appoint candidates of their choice to the First and Second Deputy positions in the Sheriffs Department. It is critical for the Sheriffs Department to work together as a unit. Therefore, I think it is important that the Governor and the Director of Public Safety have the ability to select those administrators that work well within the current system.

"I am also concerned with the requirement that the Deputy Director for Law Enforcement and Sheriff must be graduates of a law enforcement academy. Mr. Speaker, according to DHRD, this is an unusual requirement because past experience has shown that individuals without such training have been able to function satisfactorily in those positions.

"I support our law enforcement men and women and I want to make sure that the best qualified individual gets the job, but I have a problem with this measure as written. Thank you."

Representative Finnegan 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 a no vote for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2334, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Third Reading by a vote of 48 ayes to 1 no, with Representative Pine voting no, and Representatives Nakasone and Sagum being excused.

At 3:40 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2646, SD 2, HD 2
S.B. No. 2055, SD 2, HD 2
S.B. No. 711, HD 2
S.B. No. 3103, SD 1, HD 2
S.B. No. 1780, SD 2, HD 2
S.B. No. 2334, SD 2, HD 1

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1775-08) recommending that S.B. No. 2423, 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. 2423, SD 2, HD 2, pass Third Reading, seconded by Representative B. Oshiro.

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

Representative Har's written remarks are as follows:

"Mr. Speaker, I rise in support of SCR 1775-08, SB 2423 SD2 HD2 with strong reservations.

"As this body knows, this bill comports with the Governor's plan for the State to purchase Turtle Bay Resort as discussed during the Governor's State of the State Address. As an initial matter Mr. Speaker, I would like to applaud the Governor for this bold move and for her vision to preserve and protect some of the last remaining open

space along the North Shore. I also want to recognize and commend the many individuals who came before the Finance Committee to testify in support of this measure including Professor Denise Antollini from the Richardson School of Law, a former law professor of mine.

"My reservations, however Mr. Speaker, stem from three main reasons. The first being, priorities. It is our job to determine the priorities of government when funding projects. This becomes even more paramount when the State economy is slowing down.

"This bill allows the State to, among other things, issue General Obligation Bonds for the purchase of Turtle Bay. As this body knows, the State floats GO bonds to build schools. As my district has two of the four multi-tracked schools in the State and we cannot build schools fast enough because of budgetary constraints, I submit that many of my constituents strongly believe that building schools in the fastest growing district in the State is a higher priority than purchasing Turtle Bay.

"This bill would further allow the Governor to exercise the State's powers of eminent domain if an agreement to acquire Turtle Bay is not reached "in a reasonable time" as determined by the Governor. On this point, I refer to the testimony of Nicola Jones, CEO of Kuilima Resort Company, the owner of Turtle Bay Resort. Specifically, Ms. Jones states, "Kuilima cannot support any proposed legislation which suggests that the State of Hawaii acquire the Turtle Bay Resort by exercising the power of eminent domain, as such action would clearly interfere with Kuilima's vested legal rights." My reservations with this measure not only deal with priorities but deal with the fact that should this measure pass, and should the Governor exercise the State's power of eminent domain, we are inviting a potential lawsuit against the State for interfering with Kuilima's vested legal rights. That is not good public policy.

"Finally Mr. Speaker, my reservations stem not only from priorities and the potential of litigation from this bill, but from the Governor's Senior Policy Advisor who herself admitted that this is a complicated measure. In other words, this is not a simple land transaction involving a purchase of property by the State. Instead, there are many issues that will have to be addressed that preclude this from being a simple land transaction. For example, the bill states, "the land to be acquired shall include the unimproved lands that are not used for the hotel and resort proper or any appurtenant uses thereto, including but not limited to golf courses, stables, condominiums, parking areas, nurseries, and physical plant."

"What this means is that the purchase could include things such as the golf courses, stables, condos, parking areas, nurseries and physical plant which inevitably will lead to additional costs and subsequent issues for the State such as management agreements. Again I refer to the testimony of Ms. Jones, the CEO of Kuilima who states, "the governor and many others who have testified in support of this measure recognize the importance of maintaining the current Resort operations for employment, recreation opportunities, and the economic benefit to the region of the visitor draw. A VERY IMPORTANT ISSUE TO BEAR IN MIND IS THE COST, OVER AND ABOVE THE OPERATING INCOME, OF KEEPING THE RESORT GOING, INCLUDING THE COST OF NECESSARY CAPITAL IMPROVEMENTS AND DEBT SERVICE." (emphasis added).

"When I asked the Governor's Senior Policy Advisor in the Finance Committee hearing as to what the Administration envisioned for handling these issues, she acknowledged that this was a complicated bill because of these types of issues.

"Again Mr. Speaker, I support the intent of this bill, as well as my colleague from the 46th representative district, and particularly with all due respect to my colleague representing this district, but because I don't believe that purchasing Turtle Bay is a priority at this time, because I believe this bill could lead to litigation against the State, and because of the additional costs associated with the purchase of

Turtle Bay, I must respectfully vote with reservations. Thank you, Mr. Speaker."

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

"Mr. Speaker, on 1775, S.B. 2423, I would like a ruling on a potential conflict. At my law firm, I am representing the community that has sued Kuilima. Thank you," and the Chair ruled, "no conflict."

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

"Thank you, Mr. Speaker. On Stand. Com. Report 1775, I'm voting aye with some reservations. Mr. Speaker, I've represented the people of Punaluu and Hauula for 14 years, and the residents of Laie for eight years. I'm very aware of the years of public meetings that took place between Kuilima and the community, and they've work diligently to work out concessions with the developer that would benefit all the people in the area.

"The development at Kuilima, now known as Turtle Bay, was seen as a place where many North Shore residents could find a job and their children as well, living and working close to their homes. I am concerned that the resort as it exists today may have a difficult time staying solvent if they are not able to build at least one more hotel. My fears are backed by the fact that the last two operators have not done as well as they would like. It is a matter of economies of scale. Another hotel, I believe, would make the whole resort work. With our economy slowing down and fewer airplane seats available for tourists, as well as a downturn in the mainland's economy, this bill which allows for purchase by eminent domain may scare away potential hotel operators that the State would need to operate or purchase the improved resort properties if the sale goes through.

"With all that said, I believe this has the potential of being a real win-win and I'm very grateful that the Governor has put together the Turtle Bay Advisory Working Group, intelligent people bringing together a mix of experience and expertise who will serve the Governor well in her efforts to strike a balance in acquiring this revered property for the public's use, while still allowing the improved resort to flourish. Thank you, Mr. Speaker."

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

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

Representative Magaoay's written remarks are as follows:

"Thank you, Mr. Speaker. Mr. Speaker, I rise in support of Senate Bill 2423, SD2, HD1, Relating to Land Acquisition. Mr. Speaker, the purpose of this bill is to appropriate funds and authorize the Governor or the Governor's designee to acquire the area commonly known as Turtle Bay Hotel and Resort and the accompanying underdeveloped property.

"The Turtle Bay property includes about five miles of coastline, much of which is pristine and undeveloped and other large tracts that remain in their natural state. The property is also a critical piece in maintaining a rural character of the North Shore. Acquisition of the Turtle Bay property will protect this area and allow the community as a whole to shape its future.

"As most of us in this room are probably aware, the ownership of the Turtle Bay Resort property and hotel has changed hands several times since the 1970s. Currently, Oaktree Capital Management is the owner. Oaktree acquired the resort with all its 880 acres, including the Kuilima Estates West in 1998.

"Mr. Speaker, if the State fails to act now that the property is being foreclosed, it is possible for another developer to come along and build more resort units. This is a once in a generation chance to preserve both a lifestyle for thousands of residents, and a part of Hawaii that millions the world over have come to love and identify as the real Hawaii. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2423, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LAND ACQUISITION," passed Third Reading by a vote of 46 ayes to 3 noes, with Representatives Berg, Herkes and Wakai voting no, and with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1776-08) recommending that S.B. No. 3102, 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. 3102, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE LAND CONSERVATION FUND," passed Third Reading by a vote of 49 ayes, with Representatives Nakasone and Sagum being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1777-08) recommending that S.B. No. 3202, HD 1, pass Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that S.B. No. 3202, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, I rise in opposition to Stand. Com. No. 1777. Mr. Speaker this bill proposes an amendment to the Constitution to extend the mandatory retirement age from 70 to 80 for justices and judges. Mr. Speaker, it's kind of like *déjà vu* all over again. It harkens back to what less than two years ago, the people of Hawaii overwhelmingly voted down. They didn't want this, and here we are, a stone's throw away, saying, 'Well we want that'.

"There was a debate historically in America regarding the Hamiltonians and the Jeffersonians. The Hamiltonians wanted to have the elites, and the learned, and the rich, and the smart, and the educated, telling the other people what to do. And Jefferson said, 'No. The common sense of the common people, for the common good is what we should be doing. Listen to the people, whether they're elected, or they're landed, or they're rich, or they're smart, or otherwise.' Mr. Speaker this bill flies directly in the face of that true belief in grassroots democracy.

"The people told us, 'We don't want to do this.' And now we're turning around and doing it. This is a slap in the face of the voters. In fact, it's an insult to their intelligence. The other issue is we're going to have another ballot about whether the age of the Governor should be put down to 25. That's going to confuse people. Put one age up, one age down. It's not going to be simple. The point is we've already gone through this. Been there, done that. And now we're recycling it and I, quite frankly, I think it's an insult to the people of Hawaii."

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

"Mr. Speaker, I am speaking with reservations. But prior to that, I have a potential conflict of interest. I am at the awkward age where I'm called a 'senior citizen,' and the Chair ruled "no conflict."

"Thank you, very much. Mr. Speaker and Members, I believe the contents of the bill make it a good bill, but there are two things that I'm not in favor of. I know that they are trying to arrive at a

compromise, but I believe with due respect to the Chairman, my Chairman and Members of the Committee who voted for it, including me, it's a poor compromise. And the fact that it's prospective and not to take care of the current judges, and there is a limitation on the age of 80.

"If we're truly concerned about fairness in terms of age limits, we would look at age discrimination. The federal government has no such thing. We have federal judges that are far beyond the age of 80, and still continuing to practice, as long as they have the mental capability to do so.

"So what makes us so different that we need to have an age barrier? In fact we who are proponents and honor affirmative action and non-discrimination continue to discriminate with the aged. In fact, as I recall, as a Member of the Constitutional Convention, there was an amendment in there that provides for the security and welfare and non-discriminatory practices for the aged.

"In fact Mr. Speaker and Members, I wrote that very amendment in 1978, so I have every interest in protecting that, especially now. For that matter, at some point in time, they're going to say, 'Joe Souki, you're past the age to be serving the House anymore. Here you are. You're of a certain age and you can't continue to serve as a legislator.' But the judge out there, who's probably younger than you will be able to serve.' It does provide a context of problems for someone even like me, and for those of you who may be so fortunate to reach the awkward age. So Mr. Speaker, with this, I vote in reservations. Thank you."

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

"Thank you, Mr. Speaker. Thank you for the previous speaker's comments and he's absolutely right that an age limit is discrimination. Any way you put it, it is discrimination. And we unfortunately, our Constitution does discriminate.

"However, what the Judiciary Committee did was amend the bill to make it prospective. So it's anti-IFL if you will, because the Governor, Governor Lingle, will be able to appoint judges that can serve until 80. And the current judges who were appointed prior to the effective date of this bill will have to retire at 70. Thank you."

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

"Mr. Speaker, in support with reservations. I'd just like to say that I think we should abolish the mandatory retirement age. Thank you."

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

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

"Thank you very much, Mr. Speaker. I vote with reservations and may I have the words of the speaker of Wailuku adopted as if they were my own? I want to also thank the Judiciary Chair. When the bill first came out, there were a lot of problems with it and he worked with the Committee to make this prospective which took the politics out of the issue. But I guess I have to heed the words of my 80-year-old mother weighed into it because, 'What? I'm not as cognizant as I was a year ago?'

"So I think if we're going to go ahead and do this, we should just not put a cap and just make it just like driver's licenses perhaps, and just test every year. Mahalo."

Representative Ward rose to respond, stating:

"Mr. Speaker very briefly. I'm glad the speaker from Waimanalo noted that it was conceived in ill will of the IFL-phobia, that was to

be against the Governor. It was prospective as a way of getting out of that. But the point is it was conceived in that, and the perception from the public is that this is something that they voted on and we changed our mind. But in effect what was initially ill-conceived is still living on. If we waited for another two, or three years, or four years, I think it would be understandable. Right now Mr. Speaker, it's a bit of a fresh open wound."

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

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:

"Thank you, Mr. Speaker. I rise in support with reservations. I would like to have seen this measure take a closer look at the ability of justices instead of their age. Exams to ensure the competency of justices may be a better option. 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. 3202, HD 1, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO THE HAWAII CONSTITUTION TO EXTEND THE MANDATORY RETIREMENT AGE FOR STATE JUSTICES AND JUDGES FROM SEVENTY TO EIGHTY YEARS OF AGE," passed Third Reading by a vote of 44 ayes to 5 noes, with Representatives Bertram, Cabanilla, Finnegan, Meyer and Ward voting no, and with Representatives Nakasone and Sagum being excused.

S.B. No. 3202, HD 1, passed Third Reading in the following form:

S.B. No. 3202, HD 1

A BILL FOR AN ACT PROPOSING AN AMENDMENT TO THE HAWAII CONSTITUTION TO EXTEND THE MANDATORY RETIREMENT AGE FOR STATE JUSTICES AND JUDGES FROM SEVENTY TO EIGHTY YEARS OF AGE.

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

SECTION 1. The legislature finds that in today's society, individuals are living longer, healthier lives, as evidenced by the growing number of older individuals throughout the United States and the world. The legislature further finds that a benefit of our aging society is the wisdom, experience, and skills that these older individuals possess, which should be both valued and respected, particularly in the workforce.

The legislature determines that the age restriction placed upon Hawaii's justices and judges, who are highly educated individuals who have served as learned members of the bar and now the bench, should be reconsidered. The wealth of knowledge and experience in interpreting Hawaii's laws that is retained by these individuals is invaluable to the residents of Hawaii.

The purpose of this Act is to propose an amendment to article VI, section 3, of the Constitution of the State of Hawaii to extend the mandatory retirement age for newly appointed state court justices and judges from seventy to eighty years of age.

SECTION 2. Article VI, section 3, of the Constitution of the State of Hawaii is amended to read as follows:

"APPOINTMENT OF JUSTICES AND JUDGES

Section 3. The governor, with the consent of the senate, shall fill a vacancy in the office of the chief justice, supreme court, intermediate appellate court and circuit courts, by appointing a person from a list of not less than four, and not more than six, nominees for the vacancy, presented to the governor by the judicial selection commission.

If the governor fails to make any appointment within thirty days of presentation, or within ten days of the senate's rejection of any previous appointment, the appointment shall be made by the judicial selection commission from the list with the consent of the senate. If the senate fails to reject any appointment within thirty days thereof, it shall be deemed to have given its consent to ~~such~~ the appointment. If the senate ~~shall reject~~ rejects any appointment, the governor shall make another appointment from the list within ten days thereof. The same appointment and consent procedure shall be followed until a valid appointment has been made, or failing this, the commission shall make the appointment from the list, without senate consent.

The chief justice, with the consent of the senate, shall fill a vacancy in the district courts by appointing a person from a list of not less than six nominees for the vacancy presented by the judicial selection commission. If the chief justice fails to make the appointment within thirty days of presentation, or within ten days of the senate's rejection of any previous appointment, the appointment shall be made by the judicial selection commission from the list with the consent of the senate. The senate shall hold a public hearing and vote on each appointment within thirty days of any appointment. If the senate fails to do so, the nomination shall be returned to the commission and the commission shall make the appointment from the list without senate consent. The chief justice shall appoint per diem district court judges as provided by law.

QUALIFICATIONS FOR APPOINTMENT

Justices and judges shall be residents and citizens of the State and of the United States, and licensed to practice law by the supreme court. A justice of the supreme court, a judge of the intermediate appellate court and a judge of the circuit court shall have been so licensed for a period of not less than ten years preceding nomination. A judge of the district court shall have been so licensed for a period of not less than five years preceding nomination.

No justice or judge shall, during the term of office, engage in the practice of law, or run for or hold any other office or position of profit under the United States, the State or its political subdivisions.

TENURE; RETIREMENT

The term of office of justices and judges of the supreme court, intermediate appellate court and circuit courts shall be ten years. Judges of district courts shall hold office for the periods as provided by law. At least six months prior to the expiration of a justice's or judge's term of office, every justice and judge shall petition the judicial selection commission to be retained in office or shall inform the commission of an intention to retire. If the judicial selection commission determines that the justice or judge should be retained in office, the commission shall renew the term of office of the justice or judge for the period provided by this section or by law.

Justices and judges shall be retired upon attaining the age of ~~seventy~~ eighty years~~—They~~, with the exception of justices or judges first appointed prior to November 5, 2008, who shall be retired upon attaining the age of seventy years. Justices and judges shall be included in any retirement law of the State."

SECTION 3. The question to be printed on the ballot shall be as follows:

"Shall the mandatory retirement age for all state court justices and judges be extended from seventy to eighty years of age for those state court justices and judges appointed after November 4, 2008?"

SECTION 4. Constitutional material to be repealed is bracketed and stricken. New constitutional material is underscored.

SECTION 5. This amendment shall take effect upon compliance with article XVII, section 3, of the Constitution of the State of Hawaii.

At 3:53 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2423, SD 2, HD 2
S.B. No. 3102, SD 2, HD 1
S.B. No. 3202, HD 1

The Chair then announced:

"Members, please note the 10-day notice for Stand. Com. No. 1778-08 and S.B. No. 966 as listed on page 18."

At 3:53 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 3:53 o'clock p.m.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1778-08) recommending that S.B. No. 966, pass Third Reading.

In accordance with Article XVII, Section 3, of the Constitution of the State of Hawaii, consideration of Stand. Com. Rep. No. 1778-08 and S.B. No. 966, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE V, SECTION 1, OF THE HAWAII CONSTITUTION, TO CHANGE THE AGE QUALIFICATION FOR THE OFFICES OF GOVERNOR AND LIEUTENANT GOVERNOR FROM THE AGE OF THIRTY YEARS TO THE AGE OF TWENTY-FIVE YEARS," was deferred.

THIRD READING

S.B. No. 1961, SD 1, HD 1:

Representative Caldwell moved that S.B. No. 1961, SD 1, HD 1, 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:

"Mr. Speaker, I rise in support with reservations on this bill.

"Mr. Speaker, while this bill appears to provide comprehensive measures for bail bond agents, sureties, and the bail bond process, it actually does not make any effort to consider and work with the existing HRS 804. According to the Attorney General, the provisions in this law are completely inconsistent with HRS 804.

"Bail is used to address the defendant's danger to the community and risk of flight and to assure the defendant's appearance in court. When a bail bond agent assists a defendant with a bond to obtain the defendant's release, the bail bond agent is taking responsibility for the defendant's appearance in court. The bail bond agent accepts the risk if the defendant does not show up in court. However, in this bill, provisions are being proposed to allow sureties to avoid responsibilities and this could have a detrimental impact on the criminal justice system. I am hoping that as this bill moves forward, the concerns of the Attorney General will be addressed in the Conference Draft version. Thank you."

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

"Thank you, Mr. Speaker. Likewise, I will be voting with reservations and if you would please allow me to express my reservations. The bill proposes to provide a comprehensive oversight and regulation of bail bond agents. It would establish procedures for the exoneration of bail bond agents, sureties from bond liabilities, and enforcement procedures for compensated sureties. The two affected agencies, the Attorney General and the Department of Commerce and Consumer Affairs, in particular the Insurance Division, are uneasy with the way this bill is drafted.

"The problems with the bill are as follows: It does not conform to the existing law, HRS 804; and it will detrimentally impact the criminal justice system by establishing a procedure for the exoneration of bail bond agents and sureties from bond liabilities and enforcement procedures. Under current law, bond sureties can avoid liability only if they make a showing of good cause why the bond should not be forfeited.

"Under this bill, some provisions of the bill will more easily allow bond sureties to get off the hook. Allowing this avoidance of liability is contrary to the whole purpose of allowing defendants to post bond and be released. They're supposed to take responsibility for criminal defendants when they post bond for the defendants. Bond sureties ensure that they will show up for all court appearances. By allowing sureties to slide away, they have less of an incentive to ensure that defendants make their court dates because under this measure, if criminal defendants don't show up for their court appearances, sureties will not suffer any loss. Let's keep them responsible. Do not allow this proposal to advance without amendments. Thank you."

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 S.B. No. 1961, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BAIL," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Saiki being excused.

S.B. No. 2400, SD 1, HD 1:

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, S.B. No. 2400, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DECRIMINALIZATION OF MINOR OFFENSES PURSUANT TO ACT 124, SESSION LAWS OF HAWAII 2005," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Saiki being excused.

At 3:57 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 3:58 o'clock p.m.

S.B. No. 945, HD 1:

Representative Caldwell moved that S.B. No. 945, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

Representative Green rose, stating:

"Thank you, Mr. Speaker. Forgive me for this is. Is this time that I ask for a re-referral? I make a motion for a re-referral."

The Chair responded, stating:

"I believe you are out of order at this point, Representative Green."

Representative Green: "I apologize Mr. Speaker."

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

"Mr. Speaker, I'm rising with serious concern about this bill and actually to ask the Members to take a look at this as to whether or not we should even move this forward.

"As I read Section 4 of the bill it states, in part: 'No legislator shall enter into any contract for services with any entity that receives any State funding.' Right off the bat Mr. Speaker, this means Representative Shimabukuro from Waianae, Makaha ..."

Representative Takai: "Point of order, Mr. Speaker. I think Mr. Speaker you were going to cover it. Thank you."

The Chair addressed Representative Thielen, stating:

"Representative Thielen, please confine your remarks and not mention the name of the elected official, but the district that they represent."

Representative Thielen continued, stating:

"Certainly, I'll mention them by the district. The Representative from District 45 who works for the Legal Aid Society, and Legal Aid Society receives money, State funding. Then we go on to the Representative from the 37th District, Waipahu, Mililani who I believe his occupation is social worker, and I believe in providing social work, some of those entities receiving State funding. Some I am not sure about, but that Representative would know himself. District 31, Moanalua Valley, Moanalua and Salt Lake, and the occupation is public relations consultant ..."

Representative Yamane rose to a point of order, stating:

"Mr. Speaker, point of order. What is the purpose of naming the Representatives, as well as their profession?"

The Chair responded, stating:

"I believe the Representative is naming the district that Representatives are from and inferring that this particular measure may be affecting their livelihood."

At 4:01 o'clock p.m., Representative Takai requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 4:05 o'clock p.m.

Representative Thielen continued, stating:

"Thank you, Mr. Speaker. I'll continue calling legislators by their district number. We also look at others that this measure could impact. In District 34, Newtown, Waiuu and Pearl City; the Hawaii Army National Guard is funded with State money."

Representative Takai rose to a point of order, stating:

"Mr. Speaker, point of order. I believe the Representative from the Windward side is not correct on that. Federal law and State law allow me to serve in the Hawaii Army National Guard."

Representative Thielen: "I'm going to continue Mr. Speaker, because all of these legislators whom I am naming could be impacted by this bill, and I think this is something of which of the Members should be aware."

Speaker Say: "Representative Thielen, I think a lot of Members are aware of that, so would you like to submit it for the Journal?"

Representative Thielen: "No, I would not. I'd like to say it, Mr. Speaker. District 10, Lahaina, Kaanapali, Kapalua; Vice President, publishing and graphics firm, may or may not generate ..."

Representative McKelvey rose, stating:

"Mr Speaker. Just to the edification of the Representative and my friend from the Windward side. I have no State business, no State contracts, never had it, never will."

Representative Thielen: "Okay, we'll cross him off."

Representative Yamane: "Point of order, Mr. Speaker."

Speaker Say: "Representative Yamane, at the point when she is finished, if she mentions any of you who are impacted by her statements, you will be given an opportunity to correct what she's stated for the record."

Representative Yamane: "But I'm not currently employed."

Speaker Say: "I realize that, but you can state that after she finishes her list."

Representative Thielen: "District 46, Schofield, Mokuleia, North Shore; electrical engineer and I would assume as electrical engineer, he does work on State projects. District 38, Mililani, Mililani Mauka; registered nurse, may or may not be working at a hospital that receives State funding. District 41, Waipahu, Village Park, Waialeale; attorney and business man, may or may not be doing work with entities that receive State funding. District 6, North Kona, Keahou, Kailua-Kona; a physician who I believe is doing work for a hospital or hospitals that receive State funding. District 24, Manoa, the Majority Leader; attorney of which he's a partner does do work with Galbraith which may be receiving State funding if that bill goes ahead and through the Session. District 42, Waipahu, Honouliuli, Ewa; occupation, registered nurse, may or may not do nursing at a hospital or other place that receives State funding. District 11, Makena, Wailea, Kihei; Director, Greenways Maui nonprofit, may or may not receive State funding. District 18, Niu Valley, Aina Haina; educator and small business owner, may or may not do work with entities that receive State funding.

"I believe that I have picked out everyone that may be impacted by this bill, but now I would certainly welcome people standing up and saying, 'not me.' I'll reserve my remarks in closing after people indicate whether they are or not impacted by this."

Representative Green rose, stating:

"Mr. Speaker, is this the appropriate time? I said, re-referral. I meant recommittal. That was my intention in my previous statement. May I ask for a re-committal, Mr. Speaker?"

At this time, Representative Green moved that S.B. No. 945, HD 1, be recommitted to the Committee on Judiciary, seconded by Representative Sonson.

At this time, Representative Yamane requested a roll call vote at the appropriate time on the motion to recommit.

The request for a roll call vote was put to vote by the Chair and upon a show of hands, the roll call was approved.

Representative Green rose, stating:

"Point of personal privilege, Mr. Speaker. Mr. Speaker, I was confused. I was wondering if we would be discussing the motion, or am I incorrect."

The Chair responded, stating:

"You are incorrect at this time. The motion to recommit is just the motion to address the recommittal. I think we have the number of votes to have a roll call vote on the recommittal. If there is a discussion, it will be on the main motion which is not before us at this time. This is the motion to recommit."

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

"Thank you, Mr. Speaker. I stand in support of the motion to recommit. I'll try to be brief. The reason I believe this bill should be recommitted falls into two categories. One of which is that this bill, when it was passed from the Judiciary Committee, that the bill was not in its previous form. It wasn't about what it is now. That was my concern. I know we will take this up when we discuss the greater body of bills. I won't dwell on it, except to say that this was added on in the end.

"Specifically, I think that this bill, because we are a part-time Legislature, will negatively affect the ability for virtually all of us to participate in society in a productive way. I certainly have nothing against strong ethics laws, whether they were in their original forms, calling for drug testing or the other pieces of the bill. But we're here for four months basically of the year, and so many, in fact I'm sure the majority of us have other things that we have to do, in a small State there are very few other options.

"I'll take this up at much greater length if we discuss this matter for passage. But suffice it to say that in many places, there is nothing but government services that can be offered. And the current laws, as they stand, if you want to work for a government agency, you go through a rigorous process where the bill and information is posted."

Representative Caldwell rose to a point of order, stating:

"Point of order. I think the speaker is straying into the merits of the main motion and not the recommittal."

Speaker Say: "Correct. But the Chair will allow him to finish up with his comments, since this is not the main motion before this body."

Representative Green: "Thank you Mr. Speaker, I apologize. I will just sum up because I think my comments are more pertinent to the main bill, and that I think that this current bill is going to do great damage to the ability for almost all of us to contribute to society, Mr. Speaker."

Representative Yamane rose to speak in opposition to the motion to recommit, stating:

"Thank you, Mr. Speaker. I am standing in opposition to the recommittal. Mr. Speaker, the reason why I'm standing in opposition to this bill is that, we come here. We are here representing our constituents. We're held to a higher standard sometimes, that is fair and sometimes its unfair, Mr. Speaker.

"The issue of ethics is something that we've been trying to tackle for many years. I think there's some good pieces that I would hate to see die. Mr. Speaker, we get accused of being influenced by different entities from both people from this aisle, as well as those across the aisle, from those who are in our districts, or from special interest groups. Mr. Speaker this is a way of us that we are willing to work on our own House to address some of the concerns of people who feel that we may be influenced through the issue of employment or subsidy.

"Mr. Speaker, I ask Members to consider the fact that this is an ethics measure addressing openness, and I hope that people vote in opposition."

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

"Mr. Speaker, I rise in support of the recommittal. And the reason why I'm standing up in opposition is not because I don't believe in good government or clean government, but on this particular motion today I do not agree that the intent is good; that the intent is pure. But I perceive it as a clear intention for repercussion for the Members that vote and believe otherwise. I have communications that clearly made me feel that this is intended for me for a stance I believe in.

"When this bill came forward, although I know that the language is recent, I supported it because I believe in good government. And I have only spoken in these Chambers with total honesty in what I believe, disregarding who introduced the bill, or how they feel about it. And I have always believed that my colleagues will take me at my word because it's what I honestly believe in. But today, I feel I'm being punished for it and that's why I'm asking for recommittal and support for the recommittal because there are other ways to make good government. Good government can be with good intentions, and should not be disguised as clean and open when it is otherwise. Thank you, Members."

Representative Pine rose to speak in support of the motion to recommit, stating:

"In support of recommittal. I think in a bill that's about ethics, we should strive our hardest for the public to have the perception that we are being the utmost ethical. And recent developments, I guess behind the scenes and now have been made public, will give the public a perception that certain Representatives are being targeted because truly they would, by this bill not being recommitted and being passed, could possibly no longer have their jobs or keep their jobs as a legislator.

"So for the perception of the public who may think that something has been unethical in trying to pass this bill by targeting certain Representatives for retribution ..."

The Chair addressed Representative Pine, stating:

"Representative Pine, it is all Representatives. All those that may have contracts with State government."

Representative Pine continued, stating:

"All Representatives, especially those that work at hospitals would be targeted. So for that, I support the recommittal."

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

"Mr. Speaker, I am in favor of recommittal. I think that if we recommit this particular bill it would save us a lot of grief. The Majority was in Caucus for an hour and a half, an extraordinarily long time. I'm not privy what was discussed. Apparently it was the bill of which we would like to recommit. I think if do not recommit it and we vote on it, and discuss that, it might be quite divisive and maybe not a very pretty debate. I think we could get rid of the whole situation by recommitting the bill right now."

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

"Thank you, Mr. Speaker. I am in favor of the recommittal. Mr. Speaker, the reason why I'm in favor for the recommittal is basically because of the timing of this issue. Looking at not having seen this language before and coming in at the last minute, as well as not being privy to a long Caucus of really debating this issue out, the goods and the bads. And hearing this for the first time with very open and listening ears, the timing of the issue, how it's come from what would probably be considered left field. And being that the Minority has basically, Session after Session, has been pushing for measures like this. Let's make good ethics laws that clarify conflicts of interest and all of these other things. So to be able to have a substantial piece

added to this ethics bill with virtually no real debate, is questionable to me, Mr. Speaker."

The Chair then stated:

"Thank you, very much. You will have that opportunity on the main motion, Representative Finnegan.

"For those who support the recommittal, say aye. For those who oppose ..."

Representative Thielen rose, stating:

"Mr. Speaker, we're at a roll call."

Speaker Say: "Yes, and I'm stating the motion before the body, Representative Thielen. For those who support the recommittal, say aye. For those who oppose the motion to recommit, say nay. Madame Clerk, please call the roll."

Roll call having been approved, the motion that S.B. No. 945, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ETHICS," be recommitted to the Committee on Judiciary was put to vote by the Chair and failed to carry on the following show of ayes and noes:

Noes, 29: Awana, Brower, Caldwell, Chang, Chong, Evans, Har, Ito, Karamatsu, Lee, Luke, Magaoay, Manahan, McKelvey, Mizuno, Nishimoto, B. Oshiro, M. Oshiro, Rhoads, Saiki, Say, Shimabukuro, Takai, Tokioka, Tsuji, Wakai, Waters, Yamane and Yamashita.

Ayes, 19: Representatives Belatti, Berg, Bertram, Cabanilla, Ching, Finnegan, Green, Hanohano, Herkes, Marumoto, Meyer, Morita, Pine, Sonson, Souki, Takamine, Takumi, Thielen and Ward.

Excused, 3: Representatives Carroll, Nakasone and Sagum.

(Main Motion)

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

"Thank you, Mr. Speaker. I speak in opposition to the bill. Mr. Speaker, this bill is about ethics. Its title is ethics, Relating to Ethics, that is. In its original incarnation it was about requiring financial disclosures of justices and judges, and then it became a bill about drug testing. Both bills I supported. Then it became a bill about nepotism, again a piece I support. In the 11th hour without a hearing, meaningful or otherwise, sections were added, which I feel makes this bill untenable. In others makes this bill not just a bad bill, but much worse. It makes this bill, contrary to the title, an absolutely unethical abomination.

"Mr. Speaker the language of this bill right now, and I'm going to read a small section of the bill. It says that, 'No legislator, or business in which a legislator has a controlling interest shall enter into or seek to enter into a contract that's value is greater than \$10,000.' And then it just briefly goes on to say that, no multiple contracts to exceed the \$10,000 with any State agency or any body, corporate or public, instrumentality by the law.

"Mr. Speaker it's not contention with special interests, special interests that people can find out about, they can look into, had decided for whatever reason they have, that this section had to be added to the bill. And I'd like to explain what the effect of that is. The effect of that bill makes it impossible for me, a doctor who lives on the Big Island to work as a doctor at the Hawaii Health Systems Corporation hospitals if I intend to enter into a contract. It's good that we have ethics laws that prevent a conflict of interest. It is because we are here to represent all of the people and that's what we do. And that's obviously what I believe I do when I'm here. And then the rest

of the year we go out to serve the people in our capacity as workers just like all the rest of them.

"In a single case here on the Big Island, all of the hospitals with one exception are public hospitals that are run in a quasi-governmental way by HHSC. We have a small part in their budget. Over the years, to be safe, I've asked you whether I have a conflict of interest many, many times, and it's always been ruled that I didn't have a conflict of interest. At your advice, and the advice of colleagues, I have pursued the advice of our legal counsel to make sure, and again they assured me in writing and whatnot, that I didn't have a conflict of interest because I was working as a contract doctor. To be sure again, I sought the opinion of the Attorney General because I never thought that I wanted to have any appearance of a conflict of interest. Again the Attorney General said that, 'As a doctor, you don't have a conflict of interest. You're just taking care of people.'

"Now this language. This language proposes to keep me and others in this Legislature, and I'm sure they'll speak up, from working in any capacity if there is a connection, corporate or with the State or any State agency, or body corporate or public instrumentality established by the law.

"Now Mr. Speaker, six or eight months ago I was doing a shift in the emergency department for the people of Pahala at Ka'u Hospital. After a five-day shift, which is about 120 hours, I learned that one of my colleagues was thrown from a horse, a 65-year old was thrown from a horse and broke a bone in his back. His name is Dr. Dow. He's a wonderful physician committed to the community, just like I try to be. There was no one else to get because all other doctors that would possibly be available, the other four doctors that help cover the hospital, live in California, or St. Louis, or couldn't be available.

"But I was there, I was not in the Legislature at the time so I didn't have an extra commitment, and Marilyn, the CEO of Ka'u Hospital, the Administrator said, 'Can you stay, because otherwise we have to shut down. Literally shut the hospital down because we would not have a doctor.' I was the only doctor available. And I agreed to stay. And for the work that I do, I'm obviously paid as a doctor to work in these hospitals. At the advice of the Attorney General, at the advice of legal counsel, at the advice of the Speaker's rostrum."

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

Representative Green continued, stating:

"But under this bill, I would not have been available to take care of that patient if it was a conflict of interest. It was actually exactly the opposite. It was at the interest of working in that area where they had no doctor. A patient came in during that shift that was dying, as they always do and I did my best with the nurses that were working there to try to help our community. So in this example that I've just given you, what could possibly be the benefit? Unless I'm mistaken, the accusation is that by working with one of these hospitals that is partially State funded, I'm committing an act of either conflict of interest, or worse still, corruption. And I say that because it's addressing the notion that I'm getting special treatment, or any one of us would be getting special treatment if we also, when we're not here, had a contract to work with these agencies.

"I'm greatly disappointed that this is what we feel is necessary for an ethics standpoint because there are so many things that we can do that would augment the ethics laws. But all this does is prevent us from actually taking care of the people who are working for the people. As it currently stands, if a person wanted to get a contract, it would go through procurement and it would be posted; everyone would see it. I'm happy to tell everyone and anyone exactly what my contract shows. But this bill, whoever was behind the addition of that language, whoever it was. And as we know there have been very big controversies this legislative Session, so there's plenty of reason to believe people wouldn't like me to be working any longer and have to

choose my medical work over legislative work. And that could be very true of any number of us.

"But that language being added and not debated, not discussed, posted yes on the Web, that language only serves to prevent me at least in this case, and I'll allow other people on their own behalf, from doing what I love and doing what I do best, which is trying to practice medicine. And I defy anyone to see the sense, and I defy anyone to say that that was a fair process, or an appropriate process to dump that into the bill at the end.

"Mr. Speaker we have so many problems with people trusting us there is no doubt about it. But what I can say about this ethics bill is this would definitely serve the exact counterproductive agenda of an ethics bill in general. What this will do is make people wonder why on earth did we try to say that doctor can't work, or that nurse can't work. It doesn't make any sense. It was unethically passed, and I'm absolutely opposed to it, Mr. Speaker."

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

"Mr. Speaker, I am standing in support. Mr. Speaker I am one of those that would be affected by a measure like this, Mr. Speaker. It's not that I currently have a job as he did earlier. It's just that if I did try to work as a social worker, many of the jobs that I would apply for, or potentially qualify for would result in potentially being employed through a nonprofit or a pseudo-governmental agency. But Mr. Speaker, today I am standing in strong support of this measure.

"Mr. Speaker, if you look on MSN Encarta it describes ethics as, the noun version as, 'the study of moral standards and how they affect conduct.' And they describe conflict of interest as, 'a conflict between public and private interests of somebody in official position or conflict between a number of public positions.'

"Mr. Speaker, when I read this bill I immediately, probably selfishly thought, it was related to myself. I went and researched it and I questioned what was behind it. And then I began to think Mr. Speaker, about the people in my constituency, the issues I decided to run on. This bill doesn't say a name. It doesn't say any profession here. There's no profession. It doesn't say a district or an entity. It doesn't say anything except the issue that we have been talking about for a number of years, about a code of conduct and ethics.

"I've heard a lot today that it was written about certain contracts and how certain people are affected. Well, I'm going to be affected. Today, some of you may know that I was temporarily employed at a federal agency and through a federal act called the Hatch Act, I had to choose in January of this year, between remaining a legislator or doing this new part-time job, which I enjoyed. It was a financial decision where I had to choose, Mr. Speaker. And my commitment to the people of Hawaii to do what is right, regardless of the financial implications.

"In the federal government, I had no impact on their budget. I had no impact on anything that federal agency does, except that I was a State official as an employee. And so I was given a choice, and I chose to leave to prevent any question about impropriety or undue influence. So Mr. Speaker I stand today being affected by this, willing to take the sacrifice because I want to go back and tell my constituents and look at their faces and say, as a public servant, did I suffer to do this job? And the answer would be, absolutely yes."

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

"Thank you, Mr. Speaker, I'm rising in opposition to the main bill Mr. Speaker, because of this provision. And the prior speaker spoke just fine and said he had to make choices. But ask the people in Kona and that rural district over there, whether those patients want to give up their doctor because this bill is being passed by this Legislature.

"It's a whole different thing when you live in Mililani. I mean, you're in a pretty populated area. You have hospitals all around the place on this island. The Big Island doesn't. This is a punitive bill against a legislator who has worked for tort reform, and what this bill does it goes right in his face to say, 'Dr. Green, you no longer can practice medicine if you want to continue your work in the Legislature.'

"We do some pretty disgraceful things here, but this is about as low as we can get ..."

Representative Waters rose to a point of order, stating:

"Point of order, Mr. Speaker. The speaker is out of order."

The Chair addressed Representative Thielen, stating:

"Representative Thielen, can you confine your remarks and address the rostrum."

Representative Thielen: "I will look at you, Mr. Speaker. I'm sorry about that. I'm feeling very, more than disturbed that people in this Chamber will be so petty, so vindictive ..."

Speaker Say: "Representative Thielen. You are out of order. Representative, you are out of order with the statement that you just made."

Representative Thielen: "I'm talking about the bill."

Speaker Say: "You are not talking about the bill. You are talking about motives, which is out of order. Please confine your remarks to the legislation that is before you."

Representative Thielen: "When I take a look at the impact that this bill can have, which is a fair way to say it, the impact hits one Member who gives to his community both through his medical services and his service in the Legislature. This bill is aimed to silence him. And Mr. Speaker, it is wrong. Thank you."

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

"Thank you very much, Mr. Speaker. I vote with strong reservations only because I think this matter can be resolved, hopefully, in the Conference Committee. Mr. Speaker and Members, when I first ran in 1982, I was working for an anti-poverty program that received the majority of its funds from the federal government and it was covered by the Hatch Act. So I made a choice then of course, to run and not to remain with the agency. But I knew ahead of time what I was getting into and accordingly, I made a choice. I think for many of the Members here who are affected by this bill, they did not make the conscious choice.

"A previous speaker did make a choice. He found out that the Hatch Act and the Legislature were not compatible, and he had to choose one or the other. But for the majority of the Members they did not. They were not found in conflict prior to this language. Now they're potentially in conflict. And Members, you need to realize that, and you already realize, that when you're a legislator, you're a part-time legislator. You're also a part-time employee. Even in the private sector, nobody wants to hire you because they want somebody who's reliable for the whole year. Even if you're a lawyer or you're a realtor, you need to have very patient and compassionate partners who don't mind that you're going to be gone a lot of the time.

"So yes, we know all these things, but we choose. However we all have families, we all have responsibilities and we do have difficulties in meeting our personal budgets most of the time. So what I plead to you is, don't make it worse. Don't make it worse than we already have it. The problems that we have. And I think this bill certainly doesn't help us. Thank you very much."

The Chair then stated:

"Representative Ward, please. Representative Ward, can you confine your remarks since this has gone on for close to 25 minutes and I am going to end debate at 10 minutes to 5:00. Representative Ward, please proceed."

Representative Ward rose, stating:

"Mr. Speaker, you realize there was one hour of your Caucus that took up considerable debate time ..."

The Chair addressed Representative Ward, stating:

"And we also had Members of the Majority Caucus waiting for the Minority Caucus earlier this morning that was about 15 to 20 minutes."

Representative Ward continued in opposition to the measure, stating:

"Fifteen minutes, verses an hour and 10 minutes. No difference. But let me be very brief because Mr. Speaker, what I wanted to say is that this is healthy that we're talking about ethics. I'm by the way, speaking against the bill.

"It's about ethics because we've always had this kind of under the table, under our breath and we kind of go through the motions. Somebody says, 'conflict of interest,' and without even thinking, automatically you say, 'no conflict'. This is the first time we really, substantially have addressed this issue. However Mr. Speaker, I think we're rather unethically trying to be ethical the way that we're going about this.

"For example if this only knocks out the livelihood of one individual, we have 17 lawyers here, we have one doctor and it's the one doctor who loses his \$50 to \$60 an hour job in the Emergency Room. Is that fair? Is that ethical? Why I'm saying that there's got to be a little bit more tweaking and a little bit more sophistication, a little bit more nuance of this bill is that this House Mr. Speaker, this year, created an Ethics Commission or Standards of Conduct and there's nothing that that body or that entity had done regarding this. We're all thrown this curve ball in the last two hours.

"Mr. Speaker, this bill should be re-referred to the Standards of Conduct Committee, the Committee that's supposed to be dealing with ethics who will have had processed it, who will have made it equitable, and not conceived what some of you have used the word, 'vindictive'. And I know you have ruled that word out of order, but if it's been conceived in unethical terms, we are unethical to vote for this bill that's called ethics. That's the point, Mr. Speaker. Thank you, for the time."

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

"Yes, Mr. Speaker. I stand in opposition. The Hawaii State government is one of the largest employers per capita, as far as state governments, and so it does reach very far. This bill will reach far, as far as who it's going to affect, and especially the healthcare system is very much under the State control. So we really need to really think this thing through.

"So far, the processes that we followed in establishing whether or not they're going against ethics or not, people have approached the Ethics Commission directly and it seems to work. But we've heard others who have went and gone for a determination and they've either said, yes or no, and that seems to work fine. So I would suggest we continue with that.

"The other thing is that in part of this bill, they actually exempted current legislators and it shows the nepotism part of the bill. I would

say that we should do that with this part of the bill as well, because as the speaker from Wailuku was saying, this is affecting the bill when they didn't have to make the decision before, and now they need to do it now. We should just exempt the people that would be affected by this bill at the present, and make it for future legislators. Thank you."

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

"Thank you, Mr. Speaker. In support. If you read the bill, there are two parts. One of them deals with nepotism, and the other deals with employees and legislators who get government contracts.

"I want to talk first about nepotism. I want to point to the testimony submitted by the Hawaii State Ethics Commission, Dan Mollway. I want to read in pertinent part: 'It has been the experience of the Hawaii State Ethics Commission that nepotism is unfortunately widespread in this State.' I've heard that the Lieutenant Governor has his wife working for him as his Executive Assistant making over \$80,000 a year. Talk about motive. Is that why you are voting no?"

Representative Thielen rose, stating:

"I believe the speaker is out of order by calling a Member by name."

Representative Waters: "It was a rhetorical question."

The Chair responded, stating:

"He did not call a Member by name, Representative Thielen. It was the Lieutenant Governor that he made reference to. And we've always done that in the past as far as I've been Speaker of the House, in making reference to the Governor, Lieutenant Governor, all of our Congressional Delegation and others. So let him continue on with his remarks. Representative Meyer, yes?"

Representative Meyer rose, stating:

"Mr. Speaker. He's out of order when he comments across the aisle and says, 'Why are you voting like that?' We never do that. We never do that."

Speaker Say: "Representative Meyer you are out of order. Please proceed, Representative Waters."

Representative Waters continued, stating:

"Thank you. Continuing on with what Dan Mollway has written in his March 13th testimony. The question of nepotism has come up as long as I've been with the Hawaii State Ethics Commission since 1981. In the 1970s, the Legislature had rejected a nepotism statute suggested by the Hawaii State Ethics Commission. However from what I have seen, especially with the last few years regarding nepotism, I believe it is time for Hawaii to adopt a nepotism statute applicable to State officials and State employees.'

"And that's in fact what this bill does. It deals with not only the Legislature, but also the Governor, the Lieutenant Governor, the Board of Education, the Office of Hawaiian Affairs, State boards and commissions members and chairpersons. It also went as far as to deal with the county council, county mayors, and county prosecutors. Unfortunately I received another letter from the Ethics Commission saying that we can't legislate what the counties do. The counties, as far as ethics are concerned, they have to do themselves.

"In a second letter after we amended the bill to put in all the other State authorities, Dan Mollway writes on April 4, 'Again I would like to thank you for your efforts in progressing with the nepotism statute. However I believe it is important that such a statute apply to all State officials and State employees. Nepotism is wrong when done by

anybody, not just high ranking officials, but people in the State of Hawaii should have an equal opportunity to apply for State jobs.'

"You vote your conscious, up or down. Whatever happens to the bill, happens to the bill. But you have to answer to your own constituents after this.

"It's difficult to vote on bills that deal with ourselves. It's like the fox guarding the hen house for us. It really is. It's going to affect all of us starting with the first speaker who talked about all the people it will affect. And I know everyone of us who it will affect already think it was targeted toward them. But think about it, it affects every single one of us. It's hard to be a legislator. It's difficult. Part of the reason is because we have to give up our jobs. I gave up my job as a State employee to run for office, and I'll give up any contract that I may get with the State.

"I want to also point out that this takes effect on November 8 Members, so those of you who are in violation, you have time to correct it by November 8. I'm not saying you can't practice medicine or you can't practice law. You just can't get two State paychecks. That's all. You can't get two State paychecks. Even the appearance of impropriety is what's important here, and there is an appearance of impropriety in my mind when you do get State paychecks. So come November 8, if this bill passes, whoever is getting two State paychecks, cannot. Simple as that. Thank you."

At this time, the Chair stated:

"Members, there has been a lot of discussion on this particular measure. For those of you who would like to submit written comments, you may have the opportunity at this point."

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

"Thank you, Mr. Speaker. I am in support with reservations, and may I have the words of the speaker of Wailuku entered into the Journal as if they were my own, except for the part where he says, 'I. Please put in, 'the Representative from Wailuku'. Thank you.'" (By reference only.)

Representative Belatti rose in opposition to 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 rise with serious reservations to Senate Bill 945, House Draft 1.

"Both sections of this measure are fraught with problems and simply illustrate how difficult it is for legislators to craft laws that govern our own selves. As pointed out by the Chair of the Committee on Judiciary, the first section of this measure advances anti-nepotism provisions that have garnered support from the Executive Director of the Hawaii State Ethics Commission. What the Chair fails to point out, however, is that the Executive Director goes further and suggests that we adopt stronger language that would prohibit legislators, State officials, and State employees "from hiring or promoting any relative within the 4th degree of consanguinity or affinity, or recommending to any other State agency that such a relative be hired or promoted." The Chair also fails to point out that the measure as currently drafted would grandfather in certain employees and would not apply uniformly to all legislative employees. Uniform treatment and application of an anti-nepotism statute surely is the mark of a good ethics bill.

"The second section of this measure advances conflict of interest provisions that would impose a blanket prohibition over a legislator, or a business in which a legislator has a controlling interest, from entering into any contract exceeding \$10,000 in any fiscal year for goods, services, or construction with any entity that receives State funding. This is a serious departure from the law as it currently

stands which allows a state agency to contract for services in excess of \$10,000 with a legislator or business in which a legislator has a controlling interest if the State agency follows a competitive sealed bidding process. The current law, in effect, recognizes and reasonably accommodates for a part-time Legislature whose Members' livelihoods may rely, in part, on working with state agencies.

"I believe that the public does not want us to wield the lawmaking process as a way to exact punishment or bestow favors on colleagues. Just as this body spent the 2007 interim session to deliberate and craft a rule that created the House's Committee on Standards of Conduct, I believe this body would be better served by revisiting these important ethics issues and crafting a more comprehensive and thoughtful measure to address these concerns."

Representative Morita 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 Morita's written remarks are as follows:

"Mr. Speaker, I rise with serious reservations on this measure. I have no problem with the section dealing with nepotism, however, I do have concerns regarding Section 3 of this bill.

"Mr. Speaker, we are a citizen legislature which is suppose to represent a broad cross section of our communities. Some have dedicated their lives to public service in honorable professions such as educators, social workers, law enforcement, public health, etc. Their contributions in their areas of expertise should not abruptly end just because they choose to run for public office. Therefore, I believe our communities and the State of Hawaii would be better served if there were requirements of disclosure and issues of conflict were dealt with on a case by case basis."

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

"In opposition. We're all for nepotism, just not, not being able to hire a doctor."

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

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:

"Mr. Speaker, I rise in opposition on this bill.

"Mr. Speaker, this bill was designed to fight nepotism in State government, but has morphed into a bill seen by many here in the Legislature as a personal attack on one legislator who decided to defy House leadership.

"This bill would prohibit certain State officials from employing immediate family members in their office, but it exempts current family members who are presently on the payroll. If we truly want to rid the State government of nepotism, this law should apply to everybody and not exempt those who already have their foot in the door.

"Under this bill, the legislator from Kona would not be able to practice medicine because he works for a State hospital and receives a contract worth more than \$10,000 a year. Mr. Speaker, we are a part-time Legislature and most of us need to find jobs after Session. I do not think it is right to punish someone who was elected by the people for working with the state if they have the skills to do the work.

"I also don't understand the reasoning behind the \$10,000 limit. Is a legislator who is awarded a contract of \$9,000 more ethical than a person who was awarded a \$10,000 contract? I believe this \$10,000 limit was to punish a particular elected official. Mr. Speaker, I would characterize this bill as an unethical ethics bill."

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

"Thank you, Mr. Speaker. Being that my comments on the re-committal does apply to this, can I have those comments in opposition to the bill, and additional written comments as well."

"Can I just make a correction in regard to the information about the LG and employing his wife. That is incorrect, and I did not want that to go unanswered. The LG does not employ his wife. It was a former Chief of Staff that is no longer there. It was his wife, and it was not \$80,000."

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 stand in strong support of SB945 HD1."

"Mr. Speaker, SB945 HD1 prohibits State officials from employing or influencing the employment of immediate family members in positions under the official's jurisdiction. It further prohibits State agencies, body corporate, and public instrumentalities from entering into contracts valued at \$10,000 or more per year with employees and legislators."

"This bill is an attempt to prevent conflicts of interest from jeopardizing the integrity of the Legislature. Since the Legislature is a part-time lawmaking body, it is through necessity that individual members have vested pecuniary interests outside of their civil duties. It becomes a sensitive matter of ethics when the two positions intersect and the civil duty influences the private interest in a net financial gain. This creates ulterior motives that may alter a legislative member's civil judgment."

"In order to bolster previous measures taken by the Hawaii State Ethics Commission to curb nepotism and financial conflicts of interest, this bill will force a legislator to prioritize civil and private interests and will provide further assistance upon making the decision as to which position best suits each individual's career objectives. This bill brings more personal accountability to the legislative body and effectively enhances the ethical framework set to protect the overall legislative process. For these reasons, I stand in strong support of this measure. Thank you, Mr. Speaker."

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

Representative Thielen rose to respond, stating:

"Thank you, Mr. Speaker in opposition. No one is disagreeing with the nepotism bar; I think that's a very good idea. What I'm disagreeing to and many are disagreeing to is the fact that ..."

Representative Caldwell rose to a point of order, stating:

"Mr. Speaker, point of order. You've asked for just written comments."

The Chair addressed Representative Thielen, stating:

"Representative Thielen, would you submit your written comments since a lot of the Members already ..."

Representative Thielen: "It's just another sentence."

Speaker Say: "Okay, one sentence."

Representative Thielen: "This bill will prevent a doctor in a rural area from continuing to serve patients on the Big Island and that is wrong."

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

Representative Sonson's written remarks are as follows:

"This measure does not pass Sonson's Public Policy Analyzer Machine (SPPAM) test."

"The goal of SB 945 is to protect the common good, which may be defined as the common conditions that are important to the welfare of everyone."

"The tool: Punitive legislation prohibiting certain acts."

"The effect: Grandfathers existing nepotism and makes exceptions to the value of contracts in defining what is permitted employment for Legislators. It also appears to target certain members of the Caucus."

"The measure assumes that government officials are always unduly influenced by their personal state in an issue such that they are not able to deal with legislation impartially. Although I believe that conflicts of interest legislation is overdue, I cannot vote for SB 945 because I and a large segment of this legislative body have not had sufficient time to meaningfully study and discuss its contents. Moreover, there is sufficient evidence being advanced indicating that this measure was resurrected to its present form in order to target a member of our Caucus."

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

Representative Marumoto's written remarks are as follows:

"In opposition to an unethical ethics bill."

"Heaven forbid that I vote against ethics, but this may be an unethical ethics bill. Although it may sound reasonable that a sitting legislator should not have a contract or work with the State for more than \$10,000, one representative claims that the bill, if enacted, would not allow him to continue to work for a State hospital. In other words, his livelihood would be taken away. Though impossible to prove, he is also claiming that there are motives behind the bill that target him for his legislative actions favoring "tort reform".

"The nepotism portion of the bill grandfathers in current legislators, but the conflict section does not. It may also affect other legislators who work for state agencies or who have contracts with the State. It would adversely affect those who may lose income. This is a serious matter for a part time legislature where many members must work at least during the legislative interim."

"I would be certain that this bill will not pass in its present form, but because the damage it would do if passed unamended, I must vote no today. I look forward to voting again tomorrow."

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, thank you for the opportunity to offer my comments on this measure. I oppose Senate Bill 945, which attempts to provide

ethical reforms for our state government. Certain elements of this bill are sapient, and I applaud this body for addressing the problem of nepotism within the State government. However, I oppose this bill because of the amendment which would prohibit State officials, including members of this body, from entering into State contracts valued at ten-thousand dollars or more.

"While I believe that it is proper for this body to address conflicts of interest that can arise when members of the legislature in other capacities receive compensation from the State, this measure would prevent certain members of this body from maintaining their chosen careers outside of the legislature. Specifically, this bill falls unfairly on my colleagues who, as doctors or nurses, have dedicated their lives to the medical profession in our State. If this amendment becomes law, then these members will have to choose between their chosen profession and their desire to work for the people of our State in this Legislature, robbing our communities of either available medical professionals or their legislative representatives. Rural areas in our State, where medical care is sparse, would be critically affected.

"Frankly Mr. Speaker, this amendment seems to unfairly target certain members of this body and communicates to the public a sense of political bickering that will weaken the status of this body in the minds of our constituencies. This controversial measure is ill-timed and I believe that we should further refine this bill in order to provide sound ethical reform in our State government.

"In summary, while I approve of the intent of this measure to address ethical concerns in our government, this bill as amended will be counter to its stated goals and to the public's interest, and with this in mind, I offer my strong opposition to this bill as it is amended.

"Thank you for this opportunity to offer my comments on this measure."

The motion was put to vote by the Chair and carried, and S.B. No. 945, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ETHICS," passed Third Reading by a vote of 33 ayes to 15 noes, with Representatives Belatti, Berg, Bertram, Cabanilla, Ching, Finnegan, Green, Herkes, Marumoto, Meyer, Pine, Rhoads, Sonson, Thielen and Ward voting no, and with Representatives Nakasone, Sagum and Saiki being excused.

S.B. No. 2840, SD 2, HD 1:

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, S.B. No. 2840, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SELF-SUFFICIENCY," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Saiki being excused.

S.B. No. 2833, SD 1, HD 1:

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, S.B. No. 2833, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SUSTAINABILITY," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Saiki being excused.

S.B. No. 2365, SD 1, HD 1:

Representative Caldwell moved that S.B. No. 2365, 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."

At 4:54 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 4:56 o'clock p.m.

At this time, the Chair stated:

"Before calling for the question, are there any Members who would like to submit written comments on Stand. Com. Nos. 1703, 1705 and 1706? If not, Representative Blake Oshiro. Representative Ward, for what purpose do you rise?"

Representative Ward rose, stating:

"Mr. Speaker, please. Because there was not even time to speak on Stand. Com. No. 1706. You said you were calling for written comments. When you had a recess there wasn't anyone going to speak ..."

Speaker Say: "Your Minority Leader asked me to state the Stand. Com. Rep. No. which I did, and that's why I'm saying now, are there any written comments, for or against, each of the three measures that have followed after Stand. Com. Rep. No. 1702. The Chair will allow you to submit written comments."

Representative Ward: "So there is no speaking comments?"

Speaker Say: "At this point, we would like to move on so you can get back to your families and your work."

Representative Ward: "Mr. Speaker this is the people's House."

Speaker Say: "Okay, if you want to speak, the Chair will allow you. You can speak, go right ahead."

Representative Ward: "That's why we are here right? We don't get paid by the hour. We get paid by salary."

Speaker Say: "Go right ahead."

Representative Ward: "Mr. Speaker, Stand. Com. Rep. No. 1706 is about the cost of living and it's about increasing and making Hawaii less and less competitive."

Representative Takai rose to a point of order, stating:

"Mr. Speaker, point of order. For what purpose is the speaker rising?"

Speaker Say: "He's speaking in support of Stand. Com. 1706, with reservations."

Representative Ward: "I'm speaking in opposition to this bill."

Speaker Say: "In opposition, excuse me."

Representative Ward: "I have two reasons to speak in opposition. Number one, is it's timing, Mr. Speaker. Anyone who is conscious knows that we have been given a severe blow by the Aloha Airlines and the ATA bankruptcies. It is not the time to put pressure on our tourist industry to the possibility of losing 500,000 tourists. To increase by \$1 which this bill does, the amount of the rental car tax, it's already \$3, and this would add another dollar to it, I think it's very untimely to do that.

"And secondly Mr. Speaker, it is premature to pass this bill. The car industry is divided by it. There is not a consensus as to what they should do. It's going to be very expensive in the hundreds of millions of dollars, and to do it as something half baked is going to be a mistake. For those reasons Mr. Speaker, I appreciate your indulgence, but those are the reasons why this is not a good bill. Thank you."

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

The motion was put to vote by the Chair and carried, and S.B. No. 2365, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Third Reading by a vote of 40 ayes to 8 noes, with Representatives Brower, Ching, Finnegan, Marumoto, Meyer, Pine, Thielen and Ward voting no, and with Representatives Nakasone, Sagum and Saiki being excused.

At 5:00 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1961, SD 1, HD 1
 S.B. No. 2400, SD 1, HD 1
 S.B. No. 945, HD 1
 S.B. No. 2840, SD 2, HD 1
 S.B. No. 2833, SD 1, HD 1
 S.B. No. 2365, SD 1, HD 1

S.B. No. 2879, SD 2, HD 1:

Representative Caldwell moved that S.B. No. 2879, SD 2, HD 1, 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 am with reservations on Stand. Com. No. 1707, dealing with the DOE, SPED and transfer of rights. Mr. Speaker, I tried to really look at this bill and see what it was trying to accomplish. I reviewed the information and testimony and was still a little confused about the issue. I didn't have a chance to ask the DOE in their testimony to look for explanation, as well as some questions and general information. So I'll reserve my final vote till later. Thank you."

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

The motion was put to vote by the Chair and carried, and S.B. No. 2879, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Saiki being excused.

S.B. No. 2342, SD 2, HD 1:

Representative Caldwell moved that S.B. No. 2342, SD 2, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, I am standing with small reservations on this, and it's only because I believe that the audit should be extended to the prisons here in Hawaii. The prisons in Hawaii are filled beyond capacity. I remember being in the Legislature when we went under a consent decree, and we were close to going in debt and that direction. I believe that to great extent, the prisons in Hawaii are in worse condition, where you have three to a cell in many cases, according to those in a prison. Not that I would want the prisoners to be sent the mainland. I think family visitations are very, very important.

"I think all the prisoners on the mainland should be back here in Hawaii and I think that both the Legislature and the Governor are both at fault for not providing enough prison space. And I'm not blaming anyone, but here we are. We're looking at purchasing with the bill that is to come, or maybe it's passed already, some land on the North Shore. Buying the property there. Of course we know we don't have the money, but we're looking at it as a plan and to work with the Governor in doing it, but we're doing nothing for the prison. Thank you very much, Mr. Speaker."

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

"In opposition. I think this was a well-intended bill, however sitting on the Finance Committee I've been hearing the darkest of stories that things will be getting worse for us financially. The Department of Public Safety is already conducting quarterly contractual audits of these private prison facilities using subject matter experts from various divisions and branches. Further, if a problem is discovered, a detailed deficiency notice on all non-compliant contractual items is issued to the respective facility and a plan of corrective action is provided to the Department within 30 days of the deficiency notice.

"I'm just trying to find ways to save money since the Department is already doing something of an audit more than once a year, quarterly in fact, that maybe we can instead of doing a whole other audit, find a way where we can be more involved with the audit that is already being paid for by another Department."

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 S.B. No. 2342, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE AUDITOR," passed Third Reading by a vote of 46 ayes to 2 noes, with Representatives Ching and Pine voting no, and with Representatives Nakasone, Sagum and Saiki being excused.

S.B. No. 2915, SD 2, HD 1:

Representative Caldwell moved that S.B. No. 2915, SD 2, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

Representative Tsuji's written remarks are as follows:

"This bill seeks to guide policy and prioritize research for the protection of taro by establishing the Taro Security and Purity Task Force and appropriating an unspecified amount for this purpose.

"The public testimony reflected support for this Task Force to ensure the continuation of dialogue that started last year between various interested parties. SB 2915 would provide funds for stakeholders to carry on where they left off in 2007 and hopefully find mutual solutions to the growing list of ideas, concerns and threats associated with the culture and cultivation of taro, including but not limited to: taro education and training opportunities; maximizing business viability and success for growers; preserving the cultural legacy of taro farming; providing reduced lease rents for taro farmers on state-leased lands through DLNR; and taro research and outreach for the control and eradication of apple snails. The amendment to designate OHA instead of DOA as the expending agency came from taro growers wanting the Task Force to be in a culturally based agency.

"With all the divisiveness that surrounded SB 958, SB 2915 may be the vehicle to bridge the many sides of the taro issue in a more cordial and constructive fashion."

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

"Thank you, Mr. Speaker. In support with reservations, and quick comments. In the bill it talks about the Molokai varietal as being the oldest in the State, and I believe that scientific evidence states that Kauai is the oldest varietal of taro. And to that extent, if we're going to fund the Molokai varietal, I would also like to suggest we fund the Kauai varietal. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and S.B. No. 2915, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING

TO TARO," passed Third Reading by a vote of 48 ayes, with Representatives Nakasone, Sagum and Saiki being excused.

S.B. No. 1311, HD 1:

Representative Caldwell moved that S.B. No. 1311, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, on Stand. Com. No. 1710, just in opposition of this measure, just because of the loop hole. Basically it would allow us to not pay the salary of an officer and an employee that would prohibit another State employee below them, from communicating with any Member of the Legislature.

"My problem with this bill is what if you have a disgruntled employee that just wants to do anything and everything against the people above them? And so they can go ahead and give perhaps maybe even falsehoods about the department's position, or even incorrect information about a particular situation. Yet that employee is not punished, but the department head who knows for a fact that information is false and wants to prevent that employee from getting revenge, we're going to punish that department head. So for that reason, I vote in opposition."

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

"Thank you, Mr. Speaker. I would like a no vote with similar concerns."

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

"Mr. Speaker, in strong support and just a couple of points. First of all, this measure will prohibit the use of any appropriation for a payment of salaries of State employees who coerce, intimidate or otherwise prevent subordinates from sharing information at legislative hearings or in response to the legislative inquiries. This bill is to address the situations in which the Legislature requests basic information for employees, basic facts and figures, and are denied or delayed because of internal policies that direct employees to forward all legislative requests or inquiries to the director's office or the Governor's Office.

"The bill before us, the draft before us, addresses the concerns raised by the Attorney General in qualifying, that we're basically taking the same language using HRS 78-9, the Civil Service Code under the Failure to Appear or Testify; Termination of Employment provision. This approach would allow the person the right to refuse to testify or provide an answer, if there is a right to do so such as attorney-client privilege, confidentiality, on-going investigation, disciplinary action, or other right by law to refuse to answer legislative inquiry.

"The reason for this measure is obvious. Since last year, there have been concerns that employees are being gagged and threatened by the directors and their managers from responding to legislators' requests. This is more than talking about the Hydrogen Fund; more than talking about Superferry and the discussions that the Department of Health, OEQC; more than about trade missions. But in general, more about trusted civil servants responding to legislative requests for information.

"As a final example Mr. Speaker, at this very hearing in the Finance Committee, it was interesting that we heard a bill regarding NELHA, the Natural Energy Laboratory of Hawaii Authority to provide the ability of NELHA's Executive Director to report directly to the Legislature in Senate Bill 1793. And the Executive Director was there in the audience seated before the Committee. It was interesting because my colleague from Hawaii Kai was astute enough

to ask him to the table and say, 'Hey Director, are you here to testify and comment on this measure regarding your agency?' And the Executive Director was honest enough to say no, that he couldn't testify because his testimony was not approved. He was prohibited from testifying. So that goes to the heart of the issue that this measure would address.

"So Mr. Speaker, I think the concerns that have been raised regarding Executive privilege or separation of powers have been addressed in the measure. And basically, the facts and figures, the data projections are neither classified nor privilege. Thank you, Mr. Speaker."

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

"Mr. Speaker, I wasn't going to speak on this and just vote no, but I think I'll give the other side of the story. I rise in opposition. I think what the previous speaker said is well said, except for one thing and that was there were other people testifying who said, and these were directors, anybody, literally anybody can testify before the Legislature as long as they're not saying this is policy of the department. If they are speaking as individuals, let them go. This is a free country. There's freedom. But if one member of a board or a commission or of a department comes in and says this is the way things are with our department, those department heads said, 'No, That's a no-no.'

"So I think we have to nuance the perception a bit here that nobody is being squelched. There is a chain of command. There is an Executive Order. There's orderliness. There's systemization in government. And to the degree that that is maintained, this bill is conceived in a suspicion if you will, it's not a 'get Lingle' necessarily, it's not a fear of her. It's fear of some of the people beneath her who are being squelched. And as the previous speaker said, if there's someone who's trying to do something on a vindictive basis, or as a way of something that is not necessarily true, this is a vehicle by which we say, 'Hey, we're all open, and with open ears.'

"All of us have open doors, Mr. Speaker. All of us have open ears, but I think this one goes above and beyond what otherwise we should just expect."

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

"Thank you, Mr. Speaker. In opposition. When I see these kinds of measures, I mean I understand what you're trying to accomplish, and the best way I can explain why I'm in opposition to this is, if I were to ask you Mr. Speaker, do I have complete access to anybody that's employed in the House? If I were to come to your Chief of Staff or someone like that and say, 'Hey, you know what? I need to make a decision on this therefore I would like for you to give me information on this.' I would expect that that person would have to come to you and say, 'Mr. Speaker, is this okay? The people under you should have the same kind of message that you have, or at least be able to control some kind of discussion in regard to that.

"We in the Minority don't necessarily have the ability to go to the Finance staff and ask them without the permission of the Finance Chair, what's going on in a bill. And I guess that you guys are doing that for a reason. And if you can explain why that reason is so, then that would be the same reason why the Governor would like some kind of ability, and the directors, because they're accountable. They're accountable for their departments.

"So Mr. Speaker, when we are available to go into somebody else's office in the Majority and say, 'I want this information and you don't have to tell your boss,' then I think that we would have a reason to do this to the Governor's Administration. Thank you."

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

"Thank you, Mr. Speaker. I'm rising in opposition to this bill. Just to the fact that you read the short description. It says, 'it assists the Legislature with fact-finding and promotes complete and truthful disclosure by prohibiting the payment of salaries.' Whose salaries? The salaries of, 'a State employee who was alleged to have coerced and intimidated or otherwise prevented a subordinate from sharing information at legislative hearings or in a response to other legislative inquiries.'

"This is a super heavy-handed bill. It adds a new section to the law in Chapter 37. This bill, just the way it is written could create so much mischief. It's hard to even imagine. Any disgruntled employee at any department across the State who has a beef with their boss could make a claim and I think the AG's office would just be busy, busy, busy all the time. In the State you have bureaucrats that have been there forever. They served through one Governor after another. They right now, probably very few of them share the same party philosophy. There's a lot of room for mischief here and I think this should be rethought.

"You have a couple of disgruntled people or some few people that have made some claims and now you're going to add this whole new section in the law which says, 'Director of the Department of Human Services, you will not get your salary now because one of you employees claimed you coerced them.' That's pretty scary, I think. Thank you, Mr. Speaker."

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

"In support. I just want to correct a comment that the Chairman of Finance made in regard to NELHA where he said that the bill in question called for the Director of NELHA to report to the Legislature. No, the Director of NELHA is to report to the Governor. Just a correction."

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

"Mr. Speaker, in support. I'd like to be very brief. I actually believe that this bill has been around for several years, and I sort of infer that the genesis of this came back in the 2005 Session. At that time what we had was that there was a bill that was going to basically dismantle the State Water Commission.

"I specifically remember and will refer to a *Star-Bulletin* article dated February 12, 2005, where the Deputy Director of the Commission was basically forced to prepare testimony that supported the dismantling of the Commission. She didn't, and so in essence, what she had to do was resign. I think this story was really the genesis; where we found out that certain employees are being directed to do things that they don't necessarily believe. And if they don't, their choice is to resign or be reprimanded. I don't think that's appropriate, and that's what this bill is about. Thank you."

The motion was put to vote by the Chair and carried, and S.B. No. 1311, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SALARY PAYMENTS," passed Third Reading by a vote of 41 ayes to 7 noes, with Representatives Ching, Finnegan, Marumoto, Meyer, Pine, Thielen and Ward voting no, and with Representatives Nakasone, Sagum and Saiki being excused.

S.B. No. 409, SD 2, HD 1:

Representative Caldwell moved that S.B. No. 409, SD 2, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

Representative Belatti rose in opposition to 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 rise in opposition to Senate Bill 409, House Draft 1. This measure mandates health insurance providers to include in their policies coverage for medical surveillance services.

"First, I oppose this measure for procedural reasons. This measure should have received hearings in the Committees on Health and on Consumer Protection and Commerce that have purview over the subject matter of this measure. It concerns me that this bill needed to be re-referred three times and in two of the three times the measure was re-referred, a Committee and the Members of this House were stripped of their ability to vet the proposed policy in this measure.

"Second, while I appreciate that the Committee on Finance amended this measure to clarify that it mandates a service and not a specific product and has added the provision that a patient's treating physician would be required to order the application of medical surveillance services, the adoption of this measure, at this time, is still flawed.

"Many testified in opposition to this measure, including the Chamber of Commerce of Hawaii, Hawaii Association of Health Plans, Healthcare Association of Hawaii, Kaiser Permanente Hawaii, and Hawaii Medical Service Association. Kaiser Permanente's testimony was particularly persuasive in where it was explained that legislative mandates of health care coverage "tend to raise the cost of delivering health care," "tend to dictate how medicine should be practiced, which sometimes results in medicine that is not evidence based and usurps the role and expertise of the practicing physician and other health care professionals," and "lock in statutory requirements that become outdated and do not keep pace with the ever evolving and advancing fields of medicine and medical technology."

"In light of these concerns, I remain opposed to this measure. Further discussion among Members and a study, as described by HRS Sections 23-51 and 23-52 and conducted by the Auditor, to assess both the social and financial impacts of mandating medical surveillance services may demonstrate the necessity for this measure. Without this discussion and without the Auditor's study at this time, I am unable to support this measure."

Representative Lee 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 Lee's written remarks are as follows:

"Given the dire straits of our hospitals and the rising cost of health care, the proposal (SB409 SD2) to make medical vigilance systems a mandatory covered service by insurance is hard to understand. It is one of those bills that defy explanation. I figured that the yearly cost of such beds for the 50 acute patients at Wahiawa General Hospital would be about \$327,600 a year. Just think of how many hours of nursing care that would buy!

"In Committee, Hoana failed to mention how much the company would be making from this law and failed to give any criteria for the use of the bed. They were unable to identify any studies that show decreased mortality resulting from the use of the bed. There were no suggestions about who would use this bed and an implication all patients need it. Justification given for the bed use was nursing shortages on medical surgical units. There is not as severe a shortage on non-specialty units, just a reluctance of hospitals to hire more staff because of the declining fiscal situation. Note: This bed does not tell you if the patient has poor color, has pain, is slurring speech, is injuring himself in some way, is lying in a pool of excretions or has paralysis of an extremity – all important indicators of patient condition. It could be a useful adjunct in some situations but without criteria, who decides who needs it?

"In my opinion, based on 35 years of nursing experience, the use of this bed is an unnecessary expense and actually might lead to less

human attention being given to patients. When a patient needs special monitoring, it should be a result of doctor's orders or nursing assessment, not a judgment by a vendor who makes money from it.

"For this reason, I vote with reservations. Thank you for the opportunity to comment."

The motion was put to vote by the Chair and carried, and S.B. No. 409, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 46 ayes to 2 noes, with Representatives Belatti and McKelvey voting no, and with Representatives Nakasone, Sagum and Saiki being excused.

At 5:19 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2879, SD 2, HD 1
 S.B. No. 2342, SD 2, HD 1
 S.B. No. 2915, SD 2, HD 1
 S.B. No. 1311, HD 1
 S.B. No. 409, SD 2, HD 1

S.B. No. 2294, SD 2, HD 1:

Representative Caldwell moved that S.B. No. 2294, SD 2, 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. I'm rising to speak with serious reservations on this, but I will be voting in favor of the bill. It's Senate Bill 2294, Relating to Kaka'ako. Mr. Speaker what this bill will do is prevent a developer from building affordable housing outside of the Kaka'ako area, and I support that provision. What the bill will not do is provide more affordable housing in Kaka'ako. And the reason it will not provide more affordable housing in Kaka'ako is that it's taking the 20 percent requirement and increasing it to 25 percent.

"At 20 percent, the major land owner has been struggling to make that work and at this point, still has not been able to make that pencil out. I think you know that housing markets are in a tailspin. We all know that. Home loans are difficult to obtain. Prices are down. Sales are down, but construction costs are higher, which makes it more difficult to build. A developer's risk, given all those factors is significantly higher. Once you increase the affordable housing percentage requirement from 20 to 25 percent you just magnify all of the above negative problems that a developer would have.

"Kaka'ako is the only place on Oahu with a statutory affordable housing requirement, Mr. Speaker. The City and County of Honolulu has a 30 percent affordable housing rule, but it's a rule, it's a policy, it's a regulation. It's not an ordinance. And it only applies when there's a request in zoning change. It's historically been applied only when abandoned agricultural lands are up-zoned to urban uses. And it's a flexible policy. The policy in this bill, Senate Bill 2294, is not flexible.

"The main thing also, is that this bill will hurt a possible real-life sciences project. Kamehameha Schools had made a commitment and said that it would cooperate and put in a life sciences project, and we would cover it with the 20 percent affordable housing requirement on it's mauka properties in Kaka'ako. If that affordable housing requirement increases, Kamehameha Schools may have or will have a more difficult time undertaking the life sciences project.

"Now some of us were recipients of a lobbying effort by, I believe it's Ken Matsuura and another person, who came with charts to show us that the landlords could profit with the 25 percent affordable housing requirement. I've been informed that those charts are based upon inaccurate suppositions. The building costs are significantly

understated which of course, would result in the incorrect conclusion that there are excess developer profits with a 25 percent affordable housing requirement. Construction costs more realistically are \$100 to \$150 greater per square foot than cited, and that would reduce a developer's return from \$41 million profit, to something between a \$6 million profit to an \$11 million loss. You're not going to find a developer stepping in with that kind of a scenario.

"So while I agree that they must build more affordable housing and that we need it in the Kaka'ako area, and that a developer of those lands should not be able to build it outside of Kaka'ako, I think it lacks good common sense to say, 'Well, we haven't been able to do it at 20 percent so we'll increase the percentage to 25 percent.' That's just naive thinking. Thank you, Mr. Speaker."

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

Representative 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:

"Aloha Speaker Say and fellow colleagues. I rise in support of this measure.

"No one in Hawaii would argue the fact that housing prices in Hawaii are among the highest in the nation or that many of our residents are unable to afford a home of their own.

"We keep discussing and creating taskforces to find a resolution to this problem, however, it is apparent that government legislation is necessary if we are to achieve what most would agree is a critical goal, to provide affordable housing for the people of the State of Hawaii.

"This bill increases the reserved housing requirement for a major development on a lot of at least one acre in the Kakaako community development district of Honolulu. The measure also requires increases to at least twenty five per cent of the floor area to be constructed and made available as reserved housing units for low and moderate income families.

"The measure also provides a developer of reserved housing incentives and credits to encourage the private sector to develop much needed housing to make Kakaako a liveable community where residents live, work, shop and find recreation.

"The Kakaako Community Development District is envisioned as a mixed-use community of residential, commercial, industrial, and public use. Kakaako is also one of the last areas in the urban core where significant numbers of residential units can be built.

"This measure, which would allow the developers to build vertically, would enable the developer to lower the cost, providing the financial incentive needed to encourage affordable housing while simultaneously allowing for more open space.

"An additional aspect of this measure is the requirement that development in this district is compatible with plans for special districts established for the Hawaii Capitol District and other areas surrounding the Kakaako District to ensure that historic sites and culturally significant facilities, settings or locations are preserved."

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

"Mr. Speaker, in support. Just with regard to the question about whether an affordable housing project in Kaka'ako would be profitable or not, this bill asks for 25 percent of the total floor space,

whereas there are developers who have built 100 percent affordable housing complexes such as 215 North King Street and I'm assuming they made some money. So at 25 percent, they should be able to make quite a bit more money because they'll be able to spend a lot of that on luxury or commercial space. So I wouldn't argue that they will make less money, but I do think that the severity of the housing problem at this stage is such that we do not take strong measures.

"I saw recently that the census figures said that the population of Oahu actually dropped from July 1, 2006 to July 1, 2007, which is very unusual for an economy that was going as well as ours was during that year. We had very low unemployment. Usually an economy like that draws workers in. In this case, people are leaving and I have to believe that part of the reason for that is housing costs are so high, people feel they to try to seek opportunities in other locales.

"So I think the bill makes a lot of sense. Now I may be naïve. I don't know. But I think there are developers who can make money in Kaka'ako with 25 percent set aside. Mahalo."

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

The motion was put to vote by the Chair and carried, and S.B. No. 2294, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO KAKAAKO," passed Third Reading by a vote of 45 ayes to 2 noes, with Representatives Marumoto and Meyer voting no, and with Representatives Bertram, Chang, Nakasone and Sagum being excused.

S.B. No. 3048, SD 1, HD 1:

Representative Caldwell moved that S.B. No. 3048, SD 1, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. I rise in opposition. Mr. Speaker, these bills are responsible for properties that have been designated for residential use by Native Hawaiian peoples for their benefit as described by both federal and State law. There are a lot of issues with this bill. DHHL claims that the commercial leases are essential to raise funds to house Hawaiians. But this drastic change in this bill was done largely without beneficiary consultation. It was kind of a split between the homesteaders. If you look at the testimony, several were in favor, several were against, in particular homesteaders from Kauai, Hawaii Island, and Oahu. I also got word from Kamaki Kanahel, the President of the Sovereign Council of Hawaiian Homestead Associations or SCHHA, saying he had serious concerns and that these weren't consulted enough.

"So I think there needs to be a lot more time to look at this measure. There are beneficiaries that are organizing themselves to do economic development, and that's the kind of thing that I support. So maybe this bill can be deferred so we can give priority or limit the bill just to those types of projects. There has also been talk of maybe having community benefits agreements negotiated with those commercial properties. But I have additional written comments as well. Thank you."

Representative Shimabukuro's written remarks are as follows:

"I stand in opposition to this measure, which was amended to revive a defeated proposal to allow DHHL to extend commercial leases, from 65 to 99 years.

"DHHL is responsible for properties which have been designated for residential use by Native Hawaiian peoples for their benefit as prescribed by both federal and State laws. The State must live up to its responsibility to adequately fund DHHL to help alleviate the waiting list.

"Some DHHL beneficiaries were shocked by DHHL's decisions to lease homestead land to timeshare developers on Kauai, malls on Hawaii Island, and now to a mall larger than Ala Moana in Kapolei. Many were also shocked by the sudden amendments to this bill, which started off as a good measure to increase the loan ceiling for agricultural and ranch operations on Hawaiian Home Lands from \$50,000 to \$200,000 dollars.

"This drastic change to this bill, done without consulting beneficiaries, has lead homesteaders from Kauai, Hawaii Island, Oahu, as well as Kamaki Kanahel, President of the Sovereign Council of Hawaiian Homestead Associations, or "SCHHA," to oppose this measure. Further, Robin Danner of the Council for Native Hawaiian Advancement and Native Hawaiian Legal Corporation (NHLC) also opposes this measure.

"While DHHL is using the commercial leases for the laudable goal of raising funds to house Hawaiians, not all commercial leases are created equal. I support the beneficiary lead ventures, such as those in Nanakuli and on Neighbor Islands. We should provide a preference for these kinds of projects, or even limit the bill to community driven projects. Another way to improve the bill would be to require that any 99-year lease holder must enter into a community benefits agreement negotiated with beneficiary stakeholder organizations, such as homestead associations.

"I have heard from developers like Mark Development that it is difficult to house the majority of Hawaiians on the waiting list because they cannot afford the mortgages offered by DHHL. Many of those Hawaiians live in my district and are homeless.

"We need to start thinking outside the box. Over 20 years ago DHHL beneficiaries at King's Landing in Keaukaha, Hawaii Island, moved onto the land and created a village that exists "off the grid," without any costly infrastructure for water, power, etcetera. Today King's Landing is an example of a truly sustainable, agricultural, hunting, and fishing community where beneficiaries, many of whom rely on fixed disability income, are free from having to pay large mortgages and utility bills. More of these projects are needed for those on the waiting list who are passed over time and time again because they cannot afford the higher-end projects DHHL constructs. This would also curb the need for DHHL to raise money through issuing commercial leases.

"In light of the recent vehement opposition voiced by OHA's beneficiaries regarding the lack of consultation prior to the proposed settlement, we should not repeat the same mistake here with DHHL."

Representative Carroll 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 opposition to the measure, stating:

"Thank you, Mr. Speaker. I rise in opposition to this measure. Basically my opposition is that the extension to the 99 years defies our basic policies regarding leases on public lands. I'd like to refer everybody to Chapter 171-36(b) where the policy of the State is to tie on the extension of leases to the amortization of improvements on the property. There is no such provision in this bill and in public hearing it appeared that the Chair of the Hawaiian Homelands was amenable to sum a provision like that, but the bill was never amended to reflect that. And so basically what we're headed toward is making this essentially a fee rather than lease hold property.

"We are facing two situations here and they should be addressed separately. There are Hawaiian entities that have commercial operations on Hawaiian Homelands that directly benefit the beneficiaries. So I don't think anybody has a problem with that scenario. But we have a second type of commercial lease which is going out to non-Hawaiian entities and I believe that there is a Constitutional problem there too, because in the discussions from the

1978 Constitutional Convention, there was a clear indication from the delegates that the State should be fully funding the needs of the Department of Hawaiian Homelands where they wouldn't have to go out and lease Hawaiian Homelands, and that they should be adequately financing that Department. This measure goes directly against that and the only justification for this type of lease is to finance the Department, as well as the beneficiaries in providing homestead leases.

"So the major problem is there's no logical nexus of why the lease should be extended and defies our basic State policy regarding public lands that are being leased. So for those reasons, I'm against this measure."

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

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

"Mr. Speaker, in support. Mr. Speaker, Senate Bill 3048 provides the Department of Hawaiian Homelands and all of its beneficiaries with a tool that will aid in their goal to be economically self-sufficient. It will change the rule that the Department is able to lease lands for commercial developments.

"First of all, it will allow the Department and their development partners the flexibility to work with large financial institutions to provide financing for projects under commercial leases. In today's day it's very economically tight for the commercial lending market base. Investors look at the viability of projects and their return on investment. A longer term lease allows the parties the opportunity to work together to find the best financial arrangements that will make a project viable which would benefit the Department and its programs for its beneficiaries.

"Second, most commercial leases across the mainland United States have 99-year terms with step-ups at intervals for increased rents.

"Third, it gives financing flexibility for small projects and improvements on current leases; projects such as the Prince Kuhio Mall are up for rent renegotiations. This tool will provide the financial flexibility to current lessees to get a sufficient term on their leases so it can be used as collateral for a loan. The longer term lease will also allow the developer to recover their capital improvement investment and realize the reasonable return for the risk they are taking in making improvements to the property. Even smaller projects, such as the commercial project in Nanakuli benefit because they too will have to work with lenders who need to feel comfortable about taking the risk on capital improvement loans. For lenders as well a longer lease means there is collateral value. For the Department a longer lease means a longer revenue stream and the foundation for a budget how much they can plan their long term programs.

"Finally commercial projects for the Department of Hawaiian Homelands will provide the Department with economic feasibility to develop more homes for their beneficiaries. Longer term leases will mean better and stronger programs that will assist more Native Hawaiians. This is a win-win solution for the Department and its beneficiaries.

"So in summary, long term leases will be more attractive to commercial lenders and developers who in turn will provide a sustainable future for the Department of Hawaiian Homelands and its beneficiaries. A lot of our Committees are asking our departments to be more self-sustaining because they're always coming back asking for appropriations year in and year out. In this tough time it's actually good to see a department trying to be more self-sustainable, and try ask for less money from us every year and that's what they're trying to do. They want to help out their beneficiaries and also help out the

State in the big picture. Thank you. And may I insert additional comments?"

Representative Karamatsu's written remarks are as follows:

"I rise in support. Senate Bill 3048 provides the Department of Hawaiian Home Lands and all of its beneficiaries, with a tool that will aid them in their goal to be economically self-sufficient.

"We will change the way that the Department is able to lease lands for commercial developments. First of all, it allows the Department and their development partners, the flexibility to work with large financial institutions to provide financing for projects on their commercial leases. It is very tough in today's tight commercial lending marketplace. Investors look at the viability of projects, and its return on investment. A longer term lease allows the parties the opportunity to work together to find the best financing arrangements that will make a project viable, which will benefit the Department and its programs for its beneficiaries.

"Second, most commercial leases across the mainland have 99-year terms with step ups at intervals for increased rents.

"Third, it gives financing flexibility for smaller projects and improvements on current leases. Projects such as the Prince Kuhio Mall are up for rent renegotiations. This tool will provide the financial flexibility to current lessees to get a sufficient term on their lease so that it can be used as collateral for a loan. The longer term lease will also allow the developer to recover their capital improvement investment and realize a reasonable return for the risk they are taking in making improvements to the property. Even smaller projects such as the commercial project in Nanakuli benefit because they too will have to work with commercial lenders who will need to feel comfortable about taking the risk on a capitol improvements loan. For lenders as well, a longer lease means that there is collateral value. For the Department a longer lease means a longer revenue stream and the foundation for a budget on which they can plan their long term programs.

"Finally, commercial projects for the Department of Hawaiian Home Lands will provide the Department with the economic feasibility to develop more homes for their beneficiaries. Longer term leases will mean better and stronger programs that will assist more native Hawaiians. This is a win-win solution for the Department and its beneficiaries.

"To sum it all up, longer term leases will be more attractive to commercial lenders and developers who in return will provide a sustainable future for the Department of Hawaiian Home Lands and its beneficiaries. Thank you."

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

"Mr. Speaker, in opposition. I'll be really brief. I'm very concerned about this bill because of the process under which the bill comes before us is essentially, a 'gut and replace.' I have many Hawaiians in my district and I just feel that the beneficiaries do need to be consulted as this bill moves forward. I think we have time. We can take this through the interim and we can take this out to the communities and get more feedback to whether or not this is a good policy or not. Thank you."

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

"Thank you, Mr. Speaker. I rise in opposition and ask that the words of the Representative from Hanalei be entered as my own. And in addition I would just like to comment that we know when we read this that this bill is not about homes for beneficiaries. And perhaps it's a really good idea to allow departments a little more autonomy to consider the ability perhaps for the Department of Education to have similar investment capabilities. Thank you."

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

Representative Har's written remarks are as follows:

"Mr. Speaker, I stand in Strong Support of SB3048, SD1, HD1.

"Mr. Speaker, the purpose of this bill is to extend the maximum term on commercial leases on Hawaiian home lands from 65 to 99 years. Currently, the maximum commercial lease term agreement limit under the Hawaiian Homes Commission Act is 65 years. I stand in strong support for extending this limit to 99 years for two reasons:

"First, I would like to clarify the scope of a term agreement. Although 65 years sounds like a sufficient time for a lease, often times 65 years does not suffice in securing developer agreements for commercial property owners. Extending the current 65-year limit to 99 years would significantly increase property value and attract better investment. The pool of investors would be greatly enhanced, therefore increasing competition and ensuring a better overall investment selection. The increase in competitive lease bids would also give property owners more leverage during lease negotiations.

"A second reason I support the passage of this bill is because it would further allow the Department of Hawaiian Homelands to provide homeownership opportunities to native Hawaiians by increasing the Hawaiian Homes Commission's ability to secure solid investments and future funding. DHHL has worked to build its homesteading program through income generated by DHHL's commercial property leases. According to testimony by Micah Kane, Chairman of DHHL, "as DHHL designates income-generating properties to its respective homestead community-based organizations, the authority would also be passed to the homestead organizations, which would soon realize the opportunity to directly generate the same economic benefit as DHHL as they strive to carry out their respective community development plans and better serve their communities themselves." This would help to drive homestead community-based organizations into autonomous relationships with developers and further facilitate harmonious agreements between the two parties. The proposed bill would greatly enhance DHHL's ability to be fiscally self-sufficient and further provide home ownership opportunities to native Hawaiians well into the future. For these reasons, I stand in strong support of the measure. Thank you, Mr. Speaker."

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

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

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

"Thank you, Mr. Speaker. I have some reservations because of how the bill arrived here. And the other thing that's been commented on here is that it's common for commercial leases to be 99 years. I was in real estate for 35 years and it certainly wasn't common. People bought leasehold lots and built expensive houses on them, and it was a 55 year lease. Oftentimes commercial leases are even less than that, so 65 seemed like a very long commercial lease. I'm not so sure that 99 years is the way to go. Thank you."

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

"Thank you, Mr. Speaker. In strong support. This bill was at the request of the DHHL Director and I think it's a good first step to make sure that DHHL does have the requisite funds to provide Hawaiian homesteads. Thank you."

Representative Morita rose to respond, stating:

"Thank you, Mr. Speaker. I just wanted to again re-emphasize that there's no problem with extension of leases, but there should be a logical nexus to that extension; that it should be tied to the improvements on the property and the amortization of all those improvements.

"The way this bill is written now, there's no connection. And again there's a distinction between leases that have a direct impact to the beneficiaries because they're participating in that economic development, but all we have to do is go back and look at the 1978 Con Con and the mandatory language in there where the State shall make sufficient sums available to the Department of Hawaiian Homelands. We are shirking out fiduciary responsibilities if we fail to do that.

"It's very clear. There's clear language from the Con Con that exists. It is clear to your Committee that the intent and spirit of this act would be better served by releasing the Department of its present burden to generate revenues through the general leasing of its lands. And we need to be really cognizant of that. Thank you."

The motion was put to vote by the Chair and carried, and S.B. No. 3048, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT," passed Third Reading by a vote of 40 ayes to 7 noes, with Representatives Belatti, Berg, Hanohano, Morita, Rhoads, Shimabukuro and Takumi voting no, and with Representatives Bertram, Chang, Nakasone and Sagum being excused.

S.B. No. 546, SD 2, HD 1:

Representative Caldwell moved that S.B. No. 546, SD 2, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

Representative Shimabukuro rose in opposition to 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:

"I stand in opposition of SB 546, SD2, HD1. I am very disappointed that this bill no longer requires lands designated as Important Agricultural Land, or IAL, to be preserved as IALs in perpetuity. In my mind that renders this bill without any merit and makes the term "IAL" a misnomer. How is designating anything IAL any better than the current designation we have if there is no guarantee that the IAL designation will have a lasting effect?"

"Even worse, this measure allows landowners who designate IALs the option of designating the other 20 of their lands as urban or rural, bypassing the existing land use law process. The existing process is essential for thorough decision making and public involvement.

"For example, as we speak, Schuler Homes is proposing to build 12,000 homes in the Ewa plains, in an area that the County deemed part of its urban growth boundary. This project, Ho'opili, will displace Aloun Farms and several other farmers who have been successfully farming for several years on prime A and B agriculture land previously owned by Campbell Estate. While Schuler has told the media that the farmers will be relocated, when pressed, it appears that Schuler has no guarantee of that. Schuler is simply "inquiring" with other land owners about whether Aloun and the other farmers can be relocated. Sadly, Aloun and the other farmers are bound by "gag clauses" in their leases that prohibit them from speaking out against this displacement.

"Under our current law, the public can voice its opposition before the Land Use Commission and the Planning Commission. The Kapolei Neighborhood Board, Life of the Land, and many others have taken a strong stand against Schuler Homes, calling it a "crime" to evict these farmers from prime agricultural land at a time when Hawaii lawmakers have decry'd the fact that our State imports over 90% of our food. While 30% of these homes are required to be affordable, the buy back provision is only temporary. So in 10 years, we will be faced with the loss of precious farms on prime agricultural land, which will likely be replaced by high priced or luxury homes owned by the wealthy.

"Clearly, as this Schuler Homes example shows, the checks and balances between the State and County created by the LUC and Planning Commission is an essential process that must be preserved. Given the speculative real estate pressures on Hawaii's limited lands, there is no reason to expedite the conversion of farmland to developable land, particularly if such a process reduces public input.

"What this measure seems to overlook is the sprawl preventing aspect of the State Land Use Law and the process it provides. The founders of Hawaii's Land Use Law were the first in the nation to establish de facto "urban growth boundaries" and use comprehensive zoning as a way to keep unbridled development in check statewide.

"Our current law helps to prevent costly urbanization of lands far from existing urban areas where additional development is more efficient.

"Agricultural designation is a critical tool to contain urban growth and focus development where it makes the most sense.

"As such there is a need for the Legislature to support and initiate a facilitated community based discussion amongst all important agricultural land stakeholders on the needed policy and statutory changes needed to promote a sustainable agricultural sector in Hawaii for its sustainable future."

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

"Not to sound like a broken record, but just for clarification a ruling on a potential conflict. I live on one of the residential lots that would be affected by this legislation. Thank you," and the Chair ruled, "no conflict."

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

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

Representative Karamatsu's written remarks are as follows:

"I rise in support. Upon careful consideration, Senate Bill 546 was amended. We replaced its contents with most of the language of House Bill No. 2807, House Draft 2, which contains language providing two incentives for landowners to designate their land as important agricultural land (IAL) and included a number of major amendments. The goal of this measure is to protect our most valuable agricultural lands and encourage landowners to designate a large portion of their land into IALs.

"One incentive is for landowners who are required to provide affordable housing as a condition of development. A landowner who designates all or a portion of their land as IAL may satisfy this affordable housing requirement on qualifying rural district lands, rather than in the urban district as typically required.

"The other incentive allows for an easier boundary amendment reclassification process for landowners who designate their lands as

IAL, by combining the petitions for designation and reclassification, provided that:

- (1) The land sought to be reclassified is within the same county as the land to be designated IAL;
- (2) Reclassification of the land is consistent with relevant county general and development plans; and
- (3) The total acreage of the land sought to be reclassified is less than 20 percent of the land that is the subject of the petition.

"We included the following language in House Bill 2807, House Draft 2 that seeks to protect the integrity of the agricultural lands by:

- (1) Clarifying that the farm dwellings permitted on prime agricultural lands in the agricultural district must be part of a working farm, or a farming operation necessary to the production and distribution of agricultural commodities, and not merely relating to farming and animal husbandry;
- (2) Clarifying that lands in the rural district may be used for agribusiness activities and farm worker housing, which are currently found on agricultural lands; and
- (3) Clarifying that areas that are not used for, or not suited to, agricultural and ancillary activities by reason of topography, soils, and other related characteristics, shall be in the rural district, and not the agricultural district.

"Regarding the designation of IAL, House Bill 2807, House Draft 2 among other things:

- (1) Requires land designated as IAL, in a petition to designate IAL and reclassify other lands, at a minimum be:
 - (A) Land with sufficient quantities of water to support viable agricultural production; and
 - (B) Land that contributes to maintaining a critical land mass important to agricultural operating productivity;
- (2) Adds as a standard and criteria to be used to identify IALs, land that, although unsuited for agricultural use because of topography, must be kept together as part of the tax map key parcel; and
- (3) Requires the Land Use Commission (LUC) to grant or deny a petition to designate IAL and reclassify lands to other uses in its entirety.

"Your Committees have further amended House Bill 2807, House Draft 2, by:

- (1) Providing that lands in the rural district shall also include:
 - (A) Low-density residential lots and residential subdivisions existing on agricultural lands before January 1, 2008;
 - (B) Areas to preserve natural landscapes, open space, and the rural character of the area; and
 - (C) Clusters of historic plantation settlements that do not function as a suburb of a major urban center;
- (2) Removing the requirement that lands designated as IAL remain IAL in perpetuity;
- (3) Allowing a landowner seeking reclassification of lands in conjunction with a petition to designate land as IAL, to reclassify to conservation land, as well as rural or urban;

- (4) Allowing a landowner who designates IAL to earn up to 20 percent of the IAL acreage in transferrable credits that can be used to reclassify other agricultural lands to other uses, to account for situations where the landowner who designates IALs may not own lands appropriate for reclassification at the time of designation of IALs;
- (5) Allowing the LUC to designate IALs in accordance with this Act before the counties submit maps of recommended IALs;
- (6) Removing from the minimum requirement of land designated as IAL, in a petition to simultaneously designate IAL and reclassify other lands, land quality based on soil classification;
- (7) Removing the requirement that the reclassification of the lands sought to be reclassified in a petition to designate IAL be consistent with relevant community plans, and requiring consistency only with county general and development plans;
- (8) Removing county authority to issue special use permits on agricultural lands; and
- (9) Making technical, nonsubstantive amendments for style, clarity, and consistency.

"Thank you."

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

"Thank you. Just please note my reservations. Again, these are the bills relating to urban and rural development."

The motion was put to vote by the Chair and carried, and S.B. No. 546, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND USE," passed Third Reading by a vote of 40 ayes to 7 noes, with Representatives Berg, Carroll, Hanohano, Pine, Shimabukuro, Thielen and Wakai voting no, and with Representatives Bertram, Chang, Nakasone and Sagum being excused.

S.B. No. 1934, SD 1, HD 1:

Representative Caldwell moved that S.B. No. 1934, SD 1, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

Representative Shimabukuro 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 Shimabukuro's written remarks are as follows:

"Mr. Speaker, I rise to speak in support, but with partial reservations on SB 1934, SD1, HD1.

"I have no problem whatever with the various tax credits that have been added to the bill. In fact, I strongly support them! Each of them serves a worthy purpose and, if implemented, will benefit vital areas of concern such as long-term care, energy conservation, environmental preservation, and our tourist industry.

"I do have concerns, however, with what has been deleted – the Ko Olina and Makaha tax credits. Specifically, these credits would make possible the development of a training and educational facility within a working resort and hotel in Makaha. This would definitely help employment in my district, where unemployment and low wages are real issues.

"On the positive side, as I indicated at the outset, I do favor the several tax credits that comprise this bill. I am especially pleased that some of the tax credits will benefit Federally Qualified Health Centers, most of which are located in remote and underserved areas of our state. The Wai'anae Coast district that I serve will definitely be a beneficiary of this legislation."

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

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

"Thank you, Mr. Speaker. I'm rising in support with reservations. I just wanted to note that we had another bill here where we were just getting rid of all the tax credits, and in this bill we're adding a whole bunch of new ones. I don't know. It seems sort of schizophrenic, Do we want tax credits? Or do we not like them? Or do we want them? I mean, it's like we get rid of the ones that are on the books and put a bunch of new ones on. Thank you."

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

"Thank you, I rise in support. Thank you, Mr. Speaker. I just wanted to mention to you and our Members, that I appreciate the efforts on the part of the House leadership to add in part 4, page 39, the cancellation of the Aquarium Tax Credit that we had given a few years.

"It's kind of ironic that today, as we stand here talking about eliminating this tax credit, we find out in *The Honolulu Advertiser* that unfortunately, despite the pledge of not utilizing the tax credit, about \$3 million got used. But I believe that if we do this now, no more will be used. Thank you, Mr. Speaker."

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 rise with reservations to Senate Bill 1934, House Draft 1.

"As originally drafted by the Senate, this measure was intended to allow an individual taxpayer to request that the taxpayer's refund be electronically deposited into more than one account at financial institutions. As noted in the underlying Senate Committee report, "[i]ncome splitting is a standard asset management tool . . . allowing a person to split assets into separate pools for spending and for saving"; and that this tool is also used by both the federal government and California to return individual taxpayer's refunds. Because the House Draft has replaced this measure with a laundry list of tax credits, some of which the Department of Taxation has raised serious concerns about, I support this measure with reservations and hope that both House and Senate conferees will revisit the original draft of this Senate Bill."

Representative Wakai 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 Wakai's written remarks are as follows:

"Mr. Speaker, I rise with reservations on this measure. This bill is a mixed bag of goodies and garbage. Let me begin by talking about the goodies.

"I like the repeal of the Ko'Olina tax credit. As we read in today's *Advertiser*, taxpayers of Hawaii lost nearly three and a half million dollars for an aquarium and what do we have to show for it? A few pictures of a hole in the ground, and fish in a tank that the developer will never build. Now enter Disney, which indicates it will build an aquarium without any government handouts. That's the way all businesses should make money in Hawaii – they should earn it and not beg the public to pay for their projects.

"There are a couple of credits in this bill that have merit, and a couple that amount to pure subsidies for businesses and individuals.

We need to stop the bleeding. The Department of Taxation numbers in 2005 show that the 23 tax credits on the books drained our State coffers of \$200 million. We have no idea how much these proposed giveaways will cost.

"The Tax Review Commission has repeatedly suggested we reign in our appetite for tax credits. Lawmakers should be moving towards a fair tax policy that eases the burden for everyone, not just a few. Thank you, Mr. Speaker."

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:

"Thank you, Mr. Speaker. I rise in support with reservations. Mr. Speaker, overall this measure provides for many tax credits which are important and helps our general public in many areas. However, I believe a closer look needs to be taken in the area of the Ko Olina Tax Credit. Because of this, I will be voting with reservations until I can gather more information. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and S.B. No. 1934, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 47 ayes, with Representatives Bertram, Chang, Nakasone and Sagum being excused.

S.B. No. 2153, SD 1, HD 1:

Representative Caldwell moved that S.B. No. 2153, SD 1, HD 1, pass Third Reading, seconded by Representative B. Oshiro.

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

Representative Finnegan's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition of S.B. 2153, S.D. 1, H.D. 1 which provides a one dollar tax credit to taxpayers pursuant to article VII, section 6, of the Hawaii Constitution. In an article in the *Star-Bulletin*, Senator Rosalyn Baker states that, "Your committee would have loved to recommend a bill larger than this, but we have indications that our economy is problematic." The President of the United States got the same indications and the national solution was to stimulate the economy by putting money back into the pockets of taxpayers. A Democrat Majority Congress passed legislation in favor of giving a refund back to taxpayers, we should too. We aren't capable of printing up money like the feds are so we must infuse/invest back in the people of Hawaii now while we have a carryover balance to do it. We won't have this chance in the future. Thank you, Mr. Speaker."

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

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

Representative Meyer's written remarks are as follows:

"Mr. Speaker, I rise with strong reservations on this bill.

"This bill would give a \$1 tax credit to each taxpayer in Hawaii. The State Constitution mandates that the Legislature must provide tax relief to the people of Hawaii if the State has run a surplus over a certain threshold for 2 years in a row. Mr. Speaker, a \$1 tax credit is a slap in the face of every tax paying citizen. Over the last few years, Hawaii has had multi-million dollar surpluses and instead of giving a meaningful rebate to the hardworking taxpayer whose dollars created

the surplus, the Legislature chose to appropriate those millions of dollars of surplus to non-profits and other organizations that have questionable value and little oversight. Mr. Speaker, the people of Hawaii need real tax relief now, and this bill doesn't cut it. Mahalo."

The motion was put to vote by the Chair and carried, and S.B. No. 2153, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INCOME TAX CREDIT," passed Third Reading by a vote of 46 ayes to 1 no, with Representative Finnegan voting no, and Representatives Bertram, Chang, Nakasone and Sagum being excused.

At 5:43 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2294, SD 2, HD 1
S.B. No. 3048, SD 1, HD 1
S.B. No. 546, SD 2, HD 1
S.B. No. 1934, SD 1, HD 1
S.B. No. 2153, SD 1, HD 1

SUSPENSION OF RULES

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the rules were suspended for the purpose of reconsidering action previously taken in disagreeing to amendments proposed by the Senate to certain House bills. (Representatives Bertram, Chang, Nakasone and Sagum were excused.)

RECONSIDERATION OF ACTION TAKEN

Representative Caldwell moved that the House reconsider its action previously taken in disagreeing to the amendments proposed by the Senate, and gave notice of intent to agree to such amendments for the following House bills, seconded by Representative B. Oshiro and carried. (Representatives Bertram, Chang, Nakasone and Sagum were excused.)

H.B. No. 2908, SD 1
H.B. No. 3161, SD 3

ANNOUNCEMENTS

Representative Thielen: "Thank you, Mr. Speaker. I'm happy to announce in honor of Earth Day that's coming up, we have our annual Hemp Aloha Shirt Friday. If you don't have one of those, just wear natural fiber on Friday. And just so people can see, out of the scraps of the hemp fabric, I've had market bags made. They really work very well. They're strong and they work, and that saves me from having to use plastic. Thanks, Mr. Speaker."

Representative McKelvey: "I just want to thank the previous Representative for the announcement, and I just want to note that the Majority Leader has intimated to me that he really needs a hemp shirt and a bag."

Representative Yamashita: "Thank you, Mr. Speaker. Just to remind everybody that tomorrow, between 11 and 1 p.m. we will be having the fourth annual Bizarre Bazaar in Room 325. We will have food and all kinds of stuff to buy, all to help benefit the Foodbank of Hawaii, hosted by myself, Representative Chong and Representative Tsuji. Thank you."

Representative Meyer: "Mr. Speaker, I just wanted to, on behalf of the Republican Caucus, thank you for your hospitality and the wonderful lunch today."

ADJOURNMENT

At 5:48 o'clock p.m. on motion by Representative B. Oshiro, seconded by Representative Meyer and carried, the House of Representatives adjourned until 12:00 o'clock noon, Thursday, April 10, 2008. (Representatives Bertram, Chang, Nakasone and Sagum were excused.)

HOUSE COMMUNICATIONS

"April 7, 2008

MEMORANDUM

TO: Carol T. Taniguchi
Clerk of the Senate

Patricia Mau-Shimizu
Clerk of the House

FROM: Colleen Hanabusa
President of the Senate

Calvin K.Y. Say
Speaker of the House

RE: House Bill No. 2250, HD1
Relating to Transportation

Please be advised that we have authorized an exception to the 2008 Legislative Timetable agreed upon and dated December 27, 2007 with respect to the First Bill Crossover deadline [March 6th], the Second Bill Crossover deadline [April 10th], and if necessary, the deadline for disagreement to amendments made by the non-originating Chamber [April 10th] as they relate to the above-referenced bill.

The continued well-being and stability of the state's inter-island air industry, passenger as well as cargo transport, is of paramount importance to the people of the State of Hawaii.

You are hereby authorized to process, transmit and receive said measure, as appropriate, to meet Constitution bill passage requirements."

House Communication dated April 8, 2008, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has disagreed to the amendments made by the Senate to the following House bills:

H.B. No. 2062, H.D. 1, S.D. 2
H.B. No. 2163, H.D. 2, S.D. 1
H.B. No. 2254, H.D. 2, S.D. 1
H.B. No. 2306, H.D. 2, S.D. 2
H.B. No. 2326, H.D. 2, S.D. 1
H.B. No. 2366, S.D. 1
H.B. No. 2517, H.D. 1, S.D. 1
H.B. No. 2559, H.D. 2, S.D. 1
H.B. No. 2675, H.D. 2, S.D. 1
H.B. No. 2697, H.D. 1, S.D. 1
H.B. No. 2730, H.D. 1, S.D. 1
H.B. No. 2761, H.D. 1, S.D. 1
H.B. No. 2763, H.D. 1, S.D. 1
H.B. No. 2920, S.D. 1
H.B. No. 3175, H.D. 1, S.D. 1

House Communication dated April 8, 2008, 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 reconsidered its action taken in disagreeing to the amendments made by the Senate on March 24, 2008, and gives notice of intent to agree for the following House Bills:

H.B. No. 2908, SD 1
H.B. No. 3161, SD 3

"April 9, 2008

The Honorable Linda Lingle
Governor of the State of Hawaii
Executive Chambers
State Capitol
Honolulu, Hawaii 96813

Dear Governor Lingle:

In accordance with the provisions of Article XVII, Section 3 of the Hawaii State Constitution, written notice is hereby given of the final form of the following Senate Bills, copies of which are attached hereto:

S.B. No. 3201[*sic* - S.B. 3202], H.D. 1, entitled:

"PROPOSING AN AMENDMENT TO THE HAWAII CONSTITUTION TO EXTEND THE MANDATORY RETIREMENT AGE FOR STATE JUSTICES AND JUDGES FROM SEVENTY TO EIGHTY YEARS OF AGE."

Said measure passed Third Reading in the Hawaii House of Representatives on April 8, 2008.

S.B. No. 966, entitled:

"PROPOSING AN AMENDMENT TO ARTICLE V, SECTION 1, OF THE HAWAII CONSTITUTION, TO CHANGE THE AGE QUALIFICATION FOR THE OFFICES OF GOVERNOR AND LIEUTENANT GOVERNOR FROM THE AGE OF THIRTY YEARS TO THE AGE OF TWENTY-FIVE YEARS."

Said measure is pending 10-day notice and will be positioned for passage on Third Reading in the Hawaii House of Representatives on April, 21, 2008.

Respectfully,
/s/
PATRICIA MAU-SHIMIZU
Chief Clerk"