

FIFTY-NINTH DAY

Tuesday, May 5, 2009

The House of Representatives of the Twenty-Fifth Legislature of the State of Hawaii, Regular Session of 2009, convened at 9:11 o'clock a.m., with the Speaker presiding.

The invocation was delivered by Mr. Zach Thomson of Representative Carroll's staff, after which the Roll was called showing all Members present with the exception of Representatives Bertram and Takai, who were excused.

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

GOVERNOR'S MESSAGE

The following message from the Governor (Gov. Msg. No. 327) was received and announced by the Clerk and was placed on file:

Gov. Msg. No. 327, dated April 30, 2009, transmitting the Report to the Twenty-Fifth Legislature, State of Hawaii, 2009, pursuant to House Concurrent Resolution 126, HD 1, SD 1, Requesting the Department of Education and the Department of Health to Jointly Study the Feasibility of Integrating Rehabilitation Programs for Students with Anger Problems, Session Laws of Hawaii, 2008.

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 774 through 778) were received and announced by the Clerk and were placed on file:

Sen. Com. No. 774, transmitting H.C.R. No. 313, entitled: "HOUSE CONCURRENT RESOLUTION RELATING TO RECESS AND SESSION DAYS OF THE REGULAR SESSION OF 2009," which was adopted by the Senate on May 1, 2009.

Sen. Com. No. 775, transmitting H.C.R. No. 10, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE ADJUTANT GENERAL TO IDENTIFY THE LOCATION OF EVERY PUBLIC SAFE ROOM IN THE COUNTY OF HAWAII PROVIDING SUITABLE SHELTER FROM VOG AND DEVELOP PLANS TO ESTABLISH SUCH SAFE ROOMS IN ADDITIONAL AREAS THAT NEED THEM," which was adopted by the Senate on May 1, 2009.

Sen. Com. No. 776, transmitting H.C.R. No. 13, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A STUDY OF VARIOUS UNRESOLVED ISSUES RELATING TO AGING," which was adopted by the Senate on May 1, 2009.

Sen. Com. No. 777, transmitting H.C.R. No. 92, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO CONDUCT A FINANCIAL AND MANAGEMENT AUDIT OF THE DEPARTMENT OF PUBLIC SAFETY, SHERIFF DIVISION, AND TO REPORT ON THE SUITABILITY OF THE ADMINISTRATIVE ORGANIZATION OF THE DEPARTMENT OF PUBLIC SAFETY AND SHERIFF DIVISION," which was adopted by the Senate on May 1, 2009.

Sen. Com. No. 778, dated May 1, 2009, informing the House that the Senate has made the following change to Senate Conferee assignments for the following bill:

S.B. No. 1350, Senator(s) Tsutsui discharged as Co-Chair(s).
SD 2, HD 1

At 9:15 o'clock a.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:15 o'clock a.m.

LATE INTRODUCTIONS

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

Representative Choy introduced 5th grade students from Punahou School, and their teachers, Ms. Carrieann Quinn and Ms. Angela Church.

Representative Marumoto further recognized and welcomed the 5th graders from Punahou.

Representative Rhoads introduced Miss Maya Hiraki in the 5th grade Punahou class, daughter of former Representative Ken Hiraki.

Representative Luke introduced Mr. Howard McPherson, one of the chaperones with the Punahou School students.

Representative Ward introduced Mr. Charlie Ota of the Chamber of Commerce.

ORDER OF THE DAY

SUPPLEMENTAL CALENDAR #1

At this time, the Chair stated:

"As you know, the Senate President and I waived the Friday night midnight deadline for the filings of Committee Reports and Conference Drafts for certain measures which were agreed upon in public on Friday evening. I wanted to take this opportunity to explain the procedural reasons why these reports and proposed drafts were not filed on Friday night, and the reasons why the President and I waived the deadline.

"Back in December of 2008, the Senate President and I prepared an internal legislative timetable, setting May 1, 2009 as the last day to file fiscal bills for constitutional decking purposes prior to Final Reading. On April 9th of this year, the President and I signed Conference Committee guidelines that provided in paragraph 11(c) that all Conference Committee Reports for fiscal bills should be filed by 11:30 p.m. on Friday, May 1st.

"However, several measures were being negotiated up to the last few minutes before midnight on Friday night. Several Conference Committees, even though they had reached agreement on the substance of their measures, did not have the time to prepare and adequately review the Conference Reports and final form of the Conference Drafts prior to the filing deadline.

"Therefore, the President and I exercised our powers under Rule 13 of the Conference Committee Guidelines for an exception to this deadline for these measures which were agreed upon in public. We allowed these measures to be filed with the respective Clerk's Offices between 12 noon and 1 p.m. on Saturday, May 2nd.

"The President and I felt that since the Conferees had reached timely agreement on their bills, allowing these measures to die based on an internal procedural deadline for filing their requisite paperwork with the Clerk's Office in each Chamber was not in the best interest of the people of Hawaii.

"Further, we felt it important to exercise the discretion that the guidelines gave us to waive that deadline and ensure that important initiatives would reach the Floor of both Chambers for Final Reading, as the Conference Committees intended.

"I wish to emphasize that previous Legislatures, when facing similar situations in the past, have followed the same procedure we will be

following with these measures. The Conference Committee Reports and Conference Drafts for the measures received by 1 p.m. on Saturday, May 2nd, are listed on today's Supplemental Calendar of the Order of the Day. Please note that these measures and any Floor Amendments appropriately offered and acted upon today will receive the required 48-hour notice of final form as required by the Constitution and will be before this Chamber for Final Reading on Thursday, May 7th.

"Members, at this time, you have your Supplemental Calendar # 1, which I just shared with all of you which lists these particular measures filed on Saturday."

Representative M. Oshiro, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 200, HD 1, SD 1, presented a report (Conf. Com. Rep. No. 167) recommending that H.B. No. 200, HD 1, SD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 167 and H.B. No. 200, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET," was deferred for a period of 48 hours.

Representatives Yamane and M. Oshiro, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 1673, SD 2, HD 2, presented a report (Conf. Com. Rep. No. 173) recommending that S.B. No. 1673, SD 2, HD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 173 and S.B. No. 1673, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION," was deferred for a period of 48 hours.

Representatives Yamane, Morita and Nishimoto, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 36, HD 1, SD 2, presented a report (Conf. Com. Rep. No. 174) recommending that H.B. No. 36, HD 1, SD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 174 and H.B. No. 36, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," was deferred for a period of 48 hours.

Representatives Yamane, Herkes and Nishimoto, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 690, HD 2, SD 2, presented a report (Conf. Com. Rep. No. 175) recommending that H.B. No. 690, HD 2, SD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 175 and H.B. No. 690, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," was deferred for a period of 48 hours.

Representatives Morita, Cabanilla, Herkes and Coffman, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 1464, HD 3, SD 2, presented a report (Conf. Com. Rep. No. 176) recommending that H.B. No. 1464, HD 3, SD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 176 and H.B. No. 1464, HD 3, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY RESOURCES," was deferred for a period of 48 hours.

Representative M. Oshiro, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 1260, HD 1, SD 1, presented a report (Conf. Com. Rep. No.

177) recommending that H.B. No. 1260, HD 1, SD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 177 and H.B. No. 1260, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," was deferred for a period of 48 hours.

Representative M. Oshiro, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 1404, HD 1, SD 1, presented a report (Conf. Com. Rep. No. 178) recommending that H.B. No. 1404, HD 1, SD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 178 and H.B. No. 1404, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAX," was deferred for a period of 48 hours.

Representatives Yamane, Mizuno and Nishimoto, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 989, HD 1, SD 2, presented a report (Conf. Com. Rep. No. 179) recommending that H.B. No. 989, HD 1, SD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 179 and H.B. No. 989, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILDREN'S HEALTH CARE," was deferred for a period of 48 hours.

Representatives Morita, Tsuji and Choy, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 1271, HD 3, SD 2, presented a report (Conf. Com. Rep. No. 180) recommending that H.B. No. 1271, HD 3, SD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 180 and H.B. No. 1271, HD 3, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," was deferred for a period of 48 hours.

At this time, the Chair stated:

"Members, at this time we are back on the Order of the Day, and the Chair will now be taking certain items out of order."

Conf. Com. Rep. No. 113 and H.B. No. 1016, HD 2, SD 1, CD 1:

At this time, Representative Karamatsu offered Floor Amendment No. 6, amending H.B. No. 1016, HD 2, SD 1, CD 1, as follows:

SECTION 1. House Bill No. 1016, H.D. 2, S.D. 1, C.D. 1, is amended as follows:

1. By amending line 16 on page 4 to read:

"TOTAL (SECTION 1): \$1,089,096.86"

2. By amending Section 9 to read:

"SECTION 9. This Act shall take effect upon its approval; provided that section 2 shall take effect on July 1, 2009."

Representative Karamatsu moved that Floor Amendment No. 6 be adopted, seconded by Representative B. Oshiro.

Representative Keith-Agaran rose to disclose a potential conflict of interest, stating:

"Mr. Speaker, I would request that I be excused from voting on Floor Amendment No. 6. I'm a partner in a law firm who has a direct interest in one of the items in the Floor Amendment."

The Chair responded, stating:

"You are excused from this particular vote, which is on the Floor Amendment. When we vote on Final Reading, you may make the same request once more, to be excused from that vote."

The motion was put to vote by the Chair and carried, and Floor Amendment No. 6, amending H.B. No. 1016, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS, OR ITS EMPLOYEES," was adopted with Representatives Bertram, Keith-Agaran and Takai being excused.

At 10:22 o'clock a.m., the Chair noted that Floor Amendment No. 6 was adopted, and that H.B. No. 1016, HD 2, SD 1, CD 2, would be placed on the calendar for action on Thursday, May 7, 2009.

At 10:22 o'clock a.m. Representative Finnegan requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:23 o'clock a.m.

Conf. Com. Rep. No. 8 and H.B. No. 876, HD 1, SD 2, CD 1:

At this time, Representative Mizuno offered Floor Amendment No. 7, amending H.B. No. 876, HD 1, SD 2, CD 1, as follows:

SECTION 1. House Bill No. 876, H.D. 1, S.D. 2, C.D. 1, is amended as follows:

1. By deleting the titles, "PART I" on page 1, line 1, "PART II" on page 2, line 3, and "PART III" on page 6, line 13.
2. By deleting Sections 1 and 2.
3. By renumbering "SECTION 3" to read "SECTION 1."
4. By renumbering "SECTION 4" to read "SECTION 2."
5. By renumbering "SECTION 5" to read "SECTION 3."
6. By renumbering "SECTION 6" to read "SECTION 4."

Representative Mizuno moved that Floor Amendment No. 7 be adopted, seconded by Representative B. Oshiro.

The motion was put to vote by the Chair and carried, and Floor Amendment No. 7, amending H.B. No. 876, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS," was adopted with Representatives Bertram and Takai being excused.

At 10:25 o'clock a.m., the Chair noted that Floor Amendment No. 7 was adopted, and that H.B. No. 876, HD 1, SD 2, CD 2, would be placed on the calendar for action on Thursday, May 7, 2009.

Conf. Com. Rep. No. 46 and H.B. No. 128, HD 1, SD 1, CD 1:

At this time, Representative Karamatsu offered Floor Amendment No. 8, amending H.B. No. 128, HD 1, SD 1, CD 1, as follows:

SECTION 1. H.B. No. 128, H.D.1, S.D.1, C.D. 1, RELATING TO ELECTIONS, is amended by amending section 11-II of section 2 to read as follows:

"§11-II Contributions to noncandidate committees; limits. No person shall make contributions to a noncandidate committee in an

aggregate amount greater than \$1,000 in an election. This section shall not apply to ballot issue committees."

Representative Karamatsu moved that Floor Amendment No. 8 be adopted, seconded by Representative B. Oshiro.

The motion was put to vote by the Chair and carried, and Floor Amendment No. 8, amending H.B. No. 128, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," was adopted with Representatives Bertram and Takai being excused.

At 10:26 o'clock a.m., the Chair noted that Floor Amendment No. 8 was adopted, and that H.B. No. 128, HD 1, SD 1, CD 2, would be placed on the calendar for action on Thursday, May 7, 2009.

Conf. Com. Rep. No. 75 and S.B. No. 892, SD 1, HD 2, CD 1:

At this time, Representative Herkes offered Floor Amendment No. 9, amending S.B. No. 892, SD 1, HD 2, CD 1, as follows:

SECTION 1. Senate Bill No. 892, S.D. 1, H.D. 2, C.D. 1 is amended by amending paragraph (1) of Section 20 so that Section 3 of the measure becomes effective on January 1, 2010 and Section 4 of the measure becomes effective on July 1, 2009, and to read as follow:

"SECTION 20. This Act shall take effect on July 1, 2009; provided that:

- (1) Section 3 shall take effect on January 1, 2010;
- (2) Section 9 shall take effect on July 1, 2010; and
- (3) The amendments made to section 431:7-101(a), Hawaii Revised Statutes, in section 15 of this Act shall not be repealed when section 431:7-101(a), Hawaii Revised Statutes, is reenacted on June 16, 2010, pursuant to Act 177, Session Laws of Hawaii 2008."

Representative Herkes moved that Floor Amendment No. 9 be adopted, seconded by Representative B. Oshiro.

The motion was put to vote by the Chair and carried, and Floor Amendment No. 9, amending S.B. No. 892, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," was adopted with Representatives Bertram and Takai being excused.

At 10:27 o'clock a.m., the Chair noted that Floor Amendment No. 9 was adopted, and that S.B. No. 892, SD 1, HD 2, CD 2, would be placed on the calendar for action on Thursday, May 7, 2009.

Conf. Com. Rep. No. 85 and S.B. No. 1222, SD 1, HD 1, CD 1:

At this time, Representative Karamatsu offered Floor Amendment No. 10, amending S.B. No. 1222, SD 1, HD 1, CD 1, as follows:

Section 1. Senate Bill No. 1222, S.D. 1, H.D. 1, C.D. 1, is amended by amending section 1 to read as follows:

"SECTION 1. Section 711-1109, Hawaii Revised Statutes, is amended by amending subsections (1) and (2) to read as follows:

"(1) A person commits the offense of cruelty to animals in the second degree if the person intentionally, knowingly, or recklessly:

- (a) Overdrives, overloads, tortures, torments, beats, causes substantial bodily injury, or starves any animal, or causes the overdriving, overloading, torture, torment, beating, or starving of any animal[~~or deprives]~~;
- (b) Deprives a pet animal of necessary sustenance or causes such deprivation;

- [~~(b)~~] (c) Mutilates, poisons, or kills without need any animal other than insects, vermin, or other pests;
- [~~(e)~~] (d) Keeps, uses, or in any way is connected with or interested in the management of, or receives money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, cock, or other animal, and includes every person who encourages, aids, or assists therein, or who permits or suffers any place to be so kept or used;
- [~~(d)~~] (e) Carries or causes to be carried, in or upon any vehicle or other conveyance, any animal in a cruel or inhumane manner; [~~(f)~~]
- (f) Confines or causes to be confined, in a kennel or cage, any pet animal in a cruel or inhumane manner;
- (g) Tethers, fastens, ties, or restrains a dog to a dog house, tree, fence, or any other stationary object by means of a choke collar, pinch collar, or prong collar; provided that a person is not prohibited from using such restraints when walking a dog with a hand-held leash or while a dog is engaged in a supervised activity; or
- [~~(e)~~] (h) Assists another in the commission of any act specified in subsections (1)(a) through [~~(+)(d)-~~] (1)(g).
- (2) Subsection (1)(a), (b), [~~(d)~~, ~~and~~] (c), (e), (f), (g), and (h) shall not apply to:
- Accepted veterinary practices;
 - Activities carried on for scientific research governed by standards of accepted educational or medicinal practices; or
 - Pest control operations conducted pursuant to chapter 149A by a pest control operator licensed pursuant to chapter 460J, if the pest control is performed under a written contract."

Representative Karamatsu moved that Floor Amendment No. 10 be adopted, seconded by Representative B. Oshiro.

The motion was put to vote by the Chair and carried, and Floor Amendment No. 10, amending S.B. No. 1222, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HUMANE TREATMENT OF PET ANIMALS," was adopted with Representatives Bertram and Takai being excused.

At 10:28 o'clock a.m., the Chair noted that Floor Amendment No. 10 was adopted, and that S.B. No. 1222, SD 1, HD 1, CD 2, would be placed on the calendar for action on Thursday, May 7, 2009.

Conf. Com. Rep. No. 98 and S.B. No. 464, SD 2, HD 2, CD 1:

At this time, Representative Morita offered Floor Amendment No. 11, amending S.B. No. 464, SD 2, HD 2, CD 1, as follows:

SECTION 1. Section 1 of Senate Bill No. 464, S.D. 2, H.D. 2, C.D. 1 (RELATING TO TAXATION), is amended by amending subsection (b) of section 235-12.5, Hawaii Revised Statutes, to read as follows:

"(b) The amount of credit allowed for each eligible renewable energy technology system shall not exceed the applicable cap amount, which is determined as follows:

- If the primary purpose of the solar energy system is to use energy from the sun to heat water for household use, then the cap amounts shall be:
 - \$2,250 per system for single-family residential property;
 - \$350 per unit per system for multi-family residential property; and

(C) \$250,000 per system for commercial property;

(2) For all other solar energy systems, the cap amounts shall be:

(A) \$5,000 per system for single-family residential property; provided that if all or a portion of the system is used to fulfill the substitute renewable energy technology requirement pursuant to section 196-6.5(a)(3), the credit shall be reduced by thirty-five per cent of the actual system cost or \$2,250, whichever is less;

(B) \$350 per unit per system for multi-family residential property; and

(C) \$500,000 per system for commercial property;

and

(3) For all wind-powered energy systems, the cap amounts shall be:

(A) \$1,500 per system for single-family residential property; provided that if all or a portion of the system is used to fulfill the substitute renewable energy technology requirement pursuant to section 196-6.5(a)(3), the credit shall be reduced by twenty per cent of the actual system cost or \$1,500, whichever is less;

(B) \$200 per unit per system for multi-family residential property; and

(C) \$500,000 per system for commercial property."

Representative Morita moved that Floor Amendment No. 11 be adopted, seconded by Representative B. Oshiro.

The motion was put to vote by the Chair and carried, and Floor Amendment No. 11, amending S.B. No. 464, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," was adopted with Representatives Bertram and Takai being excused.

At 10:29 o'clock a.m., the Chair noted that Floor Amendment No. 11 was adopted, and that S.B. No. 464, SD 2, HD 2, CD 2, would be placed on the calendar for action on Thursday, May 7, 2009.

Conf. Com. Rep. No. 110 and S.B. No. 1461, SD 2, HD 1, CD 1:

At this time, Representative Chong offered Floor Amendment No. 12, amending S.B. No. 1461, SD 2, HD 1, CD 1, as follows:

SECTION 1. Senate Bill No. 1461, S.D. 2, H.D. 1, C.D. 1, is amended by designating sections 1 through 4 as Part I.

SECTION 2. Senate Bill No. 1461, S.D. 2, H.D. 1, C.D. 1, is amended by inserting the following:

"PART II

SECTION 5. Act 239, Session Laws of Hawaii 2007, is amended by amending section 4 to read as follows:

"SECTION 4. This Act shall take effect on January 1, 2008; provided that this Act shall be repealed on December 31, [~~2009-~~] 2010, and section 237-24.3, Hawaii Revised Statutes, and section 237-24.7, Hawaii Revised Statutes, shall be reenacted in the form in which they read on December 31, 2007."

SECTION 6. The aggregate tax exemption from the amendment in Act 239, Session Laws of Hawaii 2007, shall not exceed \$400,000 per taxable year ending on or between January 1, 2010 and January 1, 2011."

SECTION 3. Senate Bill No. 1461, S.D. 2, H.D. 1, C.D. 1, is amended by renumbering sections 5 and 6 as sections 7 and 8 and by designating the newly renumbered sections as Part III.

SECTION 4. Senate Bill No. 1461, S.D. 2, H.D. 1, C.D. 1, is amended by amending the effective date to read:

"SECTION 8. This Act, upon its approval, shall apply to returns and payments due after May 31, 2009; provided that part II of this Act shall take effect upon approval."

Representative Chong moved that Floor Amendment No. 12 be adopted, seconded by Representative B. Oshiro.

The motion was put to vote by the Chair and carried, and Floor Amendment No. 12, amending S.B. No. 1461, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," was adopted with Representatives Bertram and Takai being excused.

At 10:30 o'clock a.m., the Chair noted that Floor Amendment No. 12 was adopted, and that S.B. No. 1461, SD 2, HD 1, CD 2, would be placed on the calendar for action on Thursday, May 7, 2009.

At 10:30 o'clock a.m. Representative Finnegan requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:31 o'clock p.m.

Conf. Com. Rep. No. 136 and S.B. No. 387, SD 1, HD 1, CD 1:

At this time, Representative Chong offered Floor Amendment No. 13, amending S.B. No. 387, SD 1, HD 1, CD 1, as follows:

SECTION 1. Senate Bill No. 387, S.D. 1, H.D. 1, C.D. 1, is amended by designating section 1 as Part I.

SECTION 2. Senate Bill No. 387, S.D. 1, H.D. 1, C.D. 1, is amended by deleting sections 2 and 3.

SECTION 3. Senate Bill No. 387, S.D. 1, H.D. 1, C.D. 1, is amended by inserting the following:

"PART II

SECTION 2. The purpose of this Act is to reorganize certain state executive branch departments to reflect the provisions of the General Appropriations Act of 2009.

SECTION 3. The purpose of this part is to transfer the position of tourism liaison from the department of business, economic development, and tourism to the office of the governor.

SECTION 4. Chapter 27, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . TOURISM

§27- Special advisor for tourism. (a) There is established within the office of the governor a special advisor for tourism who shall be appointed by the governor without regard to section 26-34. The special advisor shall not be subject to chapters 76 and 89.

(b) The special advisor for tourism shall serve as the liaison between the governor and the Hawaii tourism authority, department of business, economic development, and tourism, and other public and private parties on matters relating to tourism."

PART III

SECTION 5. The purpose of this part is to transfer the small business regulatory review board, with its statutory duties and powers, from the

department of business, economic development, and tourism to the department of commerce and consumer affairs.

SECTION 6. Section 201M-5, Hawaii Revised Statutes, is amended to read as follows:

"§201M-5 Small business regulatory review board; powers. (a) There shall be established within the department of [~~business, economic development, and tourism,~~] commerce and consumer affairs for administrative purposes[;] a small business regulatory review board to review any proposed new or amended rule or to consider any request from small business owners for review of any rule adopted by a state agency and to make recommendations to the agency or the legislature regarding the need for a rule change or legislation. For requests regarding county ordinances, the board may make recommendations to the county council or the mayor for appropriate action.

(b) The board shall consist of eleven members, who shall be appointed by the governor pursuant to section 26-34. Nominations to fill vacancies shall be made from names submitted by the review board. The appointments shall reflect representation of a variety of businesses in the State; provided that no more than two members shall be representatives from the same type of business, and that there shall be at least two representatives from each county.

(c) All members of the board shall be either a current or former owner or officer of a business and shall not be an officer or employee of the federal, state, or county government. A majority of the board shall elect the chairperson. The chairperson shall serve a term of not more than one year, unless removed earlier by a two-thirds vote of all members to which the board is entitled.

(d) A majority of all the members to which the board is entitled shall constitute a quorum to do business, and the concurrence of a majority of all the members to which the board is entitled shall be necessary to make any action of the board valid.

(e) In addition to any other powers provided by this chapter, the board may:

- (1) Adopt any rules necessary to implement this chapter;
- (2) Organize and hold conferences on problems affecting small business; and
- (3) Do any and all things necessary to effectuate the purposes of this chapter.

(f) The board shall submit an annual report to the legislature twenty days prior to each regular session detailing any requests from small business owners for review of any rule adopted by a state agency, and any recommendations made by the board to an agency or the legislature regarding the need for a rule change or legislation. The report shall also contain a summary of the comments made by the board to agencies regarding its review of proposed new or amended rules.

(g) The expenses of the board shall be funded entirely from the compliance resolution fund; provided that this provision shall not require the board to charge any fee for its service. The director of commerce and consumer affairs shall include, as part of any other fee charged to a person or organization, an amount with a reasonable nexus to the small business regulatory review activities of the board.

For the purpose of this subsection, "expenses" includes operating expenses, cash capital expenses, and debt service attributable to the board."

PART IV

SECTION 7. The purpose of this part is to transfer the natural energy laboratory of Hawaii authority, with its statutory duties and powers, from the department of business, economic development, and tourism to the department of accounting and general services.

SECTION 8. Section 227D-2, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) There is established the natural energy laboratory of Hawaii authority, which shall be a body corporate and politic and an instrumentality and agency of the State. The authority shall be placed within the [~~department of business, economic development, and tourism~~] department of accounting and general services for administrative purposes[~~, pursuant to section 26-35~~]. The purpose of the natural energy laboratory of Hawaii authority shall be to facilitate research, development, and commercialization of natural energy resources and ocean-related research, technology, and industry in Hawaii and to engage in retail, commercial, or tourism activities that will financially support that research, development, and commercialization at a research and technology park in Hawaii. Its duties shall include:

- (1) Establishing, managing, and operating facilities that provide sites for:
 - (A) Research and development;
 - (B) Commercial projects and businesses utilizing natural resources, such as ocean water or geothermal energy;
 - (C) Compatible businesses engaged in scientific and technological investigations, or retail, commercial, and tourism activities; and
 - (D) Businesses or educational facilities that support the primary projects and activities;
- (2) Providing support, utilities, and other services to facility tenants and government agencies;
- (3) Maintaining the physical structure of the facilities;
- (4) Promoting and marketing these facilities;
- (5) Promoting and marketing the reasonable utilization of available natural resources;
- (6) Supporting ocean research and technology development projects that support national and state interests, use facilities and infrastructure in Hawaii, and foster potential commercial development; and
- (7) Engaging in retail, commercial, and tourism activities that are not related to facilitating research, development, and commercialization of natural energy resources in Hawaii; provided that all income derived from these activities shall be deposited in the natural energy laboratory of Hawaii authority special fund.

(b) The governing body of the authority shall consist of a board of directors having eleven voting members. Three members from the general public shall be appointed by the governor for staggered terms pursuant to section 26-34, except that one of these members shall be a resident of the county of Hawaii. The members shall be selected on the basis of their knowledge, interest, and proven expertise in, but not limited to, one or more of the following fields: finance, commerce and trade, corporate management, marketing, economics, engineering, energy management, real estate development, property management, aquaculture, and ocean science. The chairperson and secretary of the research advisory committee shall serve on the board. The [~~director of business, economic development, and tourism, the~~] chairperson of the board of land and natural resources, the [~~president of the University of Hawaii;~~] comptroller, the mayor of the county of Hawaii, an appointed member from the board of the high technology development corporation, and an appointed member from the board of the Hawaii strategic development corporation, or their designated representatives, shall serve as ex officio, voting members of the board. The [~~director of business, economic development, and tourism~~] comptroller shall serve as the chairperson until such time as a chairperson is elected by the board from the membership. The board shall elect other officers as it deems necessary."

PART V

SECTION 9. The purpose of this part is to transfer the arts and culture development branch within the department of business, economic development, and tourism to the state foundation on culture and the arts, which is placed within the department of accounting and general services for administrative purposes.

SECTION 10. All rights, powers, functions, and duties of the arts and culture development branch of the department of business, economic development, and tourism are transferred to the state foundation on culture and the arts.

PART VI

SECTION 11. The purpose of this part is to transfer the film industry branch within the department of business, economic development, and tourism to the Hawaii tourism authority.

SECTION 12. Chapter 201B, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . HAWAII TELEVISION AND FILM DEVELOPMENT

§201B-A Definitions. As used in this part:

"Applicant" means a person applying for a grant or venture capital investment from the authority under this part.

"Board" means the Hawaii television and film development board.

"Eligible Hawaii project" or "project" means an entertainment project in which at least seventy-five per cent of the budget for the production costs, excluding salaries and costs for the producer, director, writer, screenplay, and actors in the project, is dedicated for the purchase or lease of goods or services from a vendor or supplier who is located and doing business in the State.

"Fund" means the Hawaii television and film development special fund.

"Venture capital investment" means any of the following investments in a project:

- (1) Common or preferred stock and equity securities without a repurchase requirement for at least five years;
- (2) A right to purchase stock or equity securities;
- (3) Any debenture, whether or not convertible or having stock purchase rights, which is subordinated, together with security interests against the assets of the borrower, by their terms to all borrowings of the borrower from other institutional lenders, and that is for a term of not less than three years, and that has no part amortized during the first three years; and
- (4) General or limited partnership interests.

§201B-B Hawaii television and film development board. (a) There is established the Hawaii television and film development board. The board shall be attached to the Hawaii tourism authority for administrative purposes only. The board shall administer the grant and venture capital investment programs and the Hawaii television and film development special fund established under this part. The board shall also assess and consider the overall viability and development of the television and film industries and make recommendations to appropriate state or county agencies.

(b) The board shall be composed of nine members, four of whom shall be appointed by the governor pursuant to section 26-34, and all of whom shall serve four-year staggered terms. One of the governor's appointments shall be made from a list of nominees submitted by the president of the senate and another appointment shall be made from a list of nominees

submitted by the speaker of the house of representatives. The four appointed members shall possess a current working knowledge of the film, television, or entertainment industry. The executive director of the Hawaii tourism authority and the chairs of the four county film commissions, or their equivalent, shall serve as ex officio voting members, who may be represented on the board by designees.

The chairperson and vice chairperson of the board shall be selected by the board by majority vote. Five members shall constitute a quorum, whose affirmative vote shall be necessary for all actions by the board. The members shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

(c) The film industry branch development manager shall serve as the executive secretary of the board.

(d) The board may adopt rules pursuant to chapter 91 to effectuate the purposes of this part.

§201B-C Hawaii television and film development special fund. (a) There is established in the state treasury the Hawaii television and film development special fund into which shall be deposited:

- (1) Appropriations by the legislature;
- (2) Donations and contributions made by private individuals or organizations for deposit into the fund;
- (3) Grants provided by governmental agencies or any other source; and
- (4) Any profits or other amounts received from venture capital investments.

(b) The fund shall be used by the board to assist in, and provide incentives for, the production of eligible Hawaii projects that are in compliance with criteria and standards established by the board in accordance with rules adopted by the board pursuant to chapter 91. In particular, the board shall adopt rules to provide for the implementation of the following programs:

- (1) A grant program. The board shall adopt rules pursuant to chapter 91 to provide conditions and qualifications for grants. Applications for grants shall be made to the board and shall contain such information as the board shall require by rules adopted pursuant to chapter 91. At a minimum, the applicant shall agree to the following conditions:
 - (A) The grant shall be used exclusively for eligible Hawaii projects;
 - (B) The applicant shall have applied for or received all applicable licenses and permits;
 - (C) The applicant shall comply with applicable federal and state laws prohibiting discrimination against any person on the basis of race, color, national origin, religion, creed, sex, age, or physical handicap;
 - (D) The applicant shall comply with other requirements as the board may prescribe;
 - (E) All activities undertaken with funds received shall comply with all applicable federal, state, and county statutes and ordinances;
 - (F) The applicant shall indemnify and save harmless the State of Hawaii and its officers, agents, and employees from and against any and all claims arising out of or resulting from activities carried out or projects undertaken with funds provided hereunder, and procure sufficient insurance to provide this indemnification if requested to do so by the department;
 - (G) The applicant shall make available to the board all records the applicant may have relating to the project, to allow the board to

monitor the applicant's compliance with the purpose of this chapter; and

(H) The applicant, to the satisfaction of the board, shall establish that sufficient funds are available for the completion of the project for the purpose for which the grant is awarded;

and

- (2) A venture capital program. The board shall adopt rules pursuant to chapter 91 to provide conditions and qualifications for venture capital investments in eligible Hawaii projects. The program may include a written agreement between the borrower and the board, as the representative of the State, that as consideration for the venture capital investment made under this part, the borrower shall share any royalties, licenses, titles, rights, or any other monetary benefits that may accrue to the borrower pursuant to terms and conditions established by the board by rule pursuant to chapter 91. Venture capital investments may be made on such terms and conditions as the board shall determine to be reasonable, appropriate, and consistent with the purposes and objectives of this part.

§201B-D Inspection of premises and records. The board shall have the right to inspect, at reasonable hours, the plant, physical facilities, equipment, premises, books, and records of any applicant in connection with the processing of a grant to the applicant."

SECTION 13. Part IX of chapter 201, Hawaii Revised Statutes, is repealed.

PART VII

SECTION 14. The purpose of this part is to conform various sections of the Hawaii Revised Statutes to the amendments made under more than one of the previous parts.

SECTION 15. Section 26-18, Hawaii Revised Statutes, is amended to read as follows:

"§26-18 Department of business, economic development, and tourism. [(a)] The department of business, economic development, and tourism shall be headed by a single executive to be known as the director of business, economic development, and tourism.

The department shall undertake statewide business and economic development activities, undertake energy development and management, provide economic research and analysis, plan for the use of Hawaii's ocean resources, and encourage the development and promotion of industry and international commerce through programs established by law.

[(b)] The following are placed in the department of business, economic development, and tourism for administrative purposes as defined by section 26-35: Aloha Tower development corporation, Hawaii community development authority, Hawaii housing finance and development corporation, high technology development corporation, land use commission, [natural energy laboratory of Hawaii authority,] and any other boards and commissions as shall be provided by law.

The department of business, economic development, and tourism shall be empowered to establish, modify, or abolish statistical boundaries for cities, towns, or villages in the State and shall publish, as expeditiously as possible, an up-to-date list of cities, towns, and villages after changes to statistical boundaries have been made."

SECTION 16. Section 201-2, Hawaii Revised Statutes, is amended to read as follows:

"§201-2 General objective, functions, and duties of department. It shall be the objective of the department of business, economic development, and tourism to make broad policy determinations with respect to economic development in the State and to stimulate through research and demonstration projects those industrial and economic development efforts that offer the most immediate promise of expanding

the economy of the State. The department shall endeavor to gain an understanding of those functions and activities of other governmental agencies and of private agencies that relate to the field of economic development. ~~[It shall.]~~ The department, at all times, shall encourage initiative and creative thinking in harmony with the objectives of the department.

The department of business, economic development, and tourism shall have sole jurisdiction over the land use commission under chapter 205, state planning under chapter 225M, and the Hawaii State Planning Act under chapter 226. Due to the inherently interdependent functions of development, planning, and land use, these functions shall not be transferred by executive order, directive, or memorandum, to any other department, nor shall these functions be subject to review or approval by any other department."

SECTION 17. Section 201-3, Hawaii Revised Statutes, is amended to read as follows:

"§201-3 **Specific research and promotional functions of the department.** Without prejudice to its general functions and duties the department of business, economic development, and tourism shall have specific functions in the following areas:

- (1) Industrial development. The department shall determine through technical and economic surveys the profit potential of new or expanded industrial undertakings; develop through research projects and other means new and improved industrial products and processes; promote studies and surveys to determine consumer preference as to design and quality and to determine the best methods of packaging, transporting, and marketing the State's industrial products; disseminate information to assist the present industries of the State, to attract new industries to the State, and to encourage capital investment in present and new industries in the State; assist associations of producers and distributors of industrial products to introduce these products to consumers; and make grants or contracts as may be necessary or advisable to accomplish the foregoing;
- (2) Land development. The department shall encourage the most productive use of all land in the State in accordance with a general plan developed by the department; encourage the improvement of land tenure practices on leased private lands; promote an informational program directed to landowners, producers of agricultural and industrial commodities, and the general public regarding the most efficient and most productive use of the lands in the State; and make grants or contracts as may be necessary or advisable to accomplish the foregoing;
- (3) Credit development. The department shall conduct a continuing study of agricultural and industrial credit needs; encourage the development of additional private and public credit sources for agricultural and industrial enterprises; promote an informational program to acquaint financial institutions with agricultural and industrial credit needs and the potential for agricultural and industrial expansion, and inform producers of agricultural and industrial products as to the manner in which to qualify for loans; and make grants or contracts as may be necessary or advisable to accomplish the foregoing; and
- (4) Promotion. The department shall disseminate information developed for or by the department pertaining to economic development to assist present industry in the State, attract new industry and investments to the State, and assist new and emerging industry with good growth potential or prospects in jobs, exports, and new products. The industrial and economic promotional activities of the department may include the use of literature, advertising, demonstrations, displays, market testing, lectures, travel, motion picture and slide films, and other promotional and publicity devices as may be appropriate;
- (5) Tourism research and statistics. The department shall maintain a program of research and statistics for the purpose of:

- (A) Measuring and analyzing tourism trends;
- (B) Providing information and research to assist in the development and implementation of state tourism policy;
- (C) Encouraging and arranging for the conduct of tourism research and information development through voluntary means or through contractual services with qualified agencies, firms, or persons; and
- (D) Providing tourism information to policy makers, the public, and the visitor industry. This includes:
 - (i) Collecting and publishing visitor-related data including visitor arrivals, visitor characteristics and expenditures;
 - (ii) Collecting and publishing hotel-related statistics including the number of units available, occupancy rates, and room rates;
 - (iii) Collecting and publishing airline-related data including seat capacity and number of flights;
 - (iv) Collecting information and conducting analyses of the economic, social, and physical impacts of tourism on the State;
 - (v) Conducting periodic studies of the impact of ongoing marketing programs of the Hawaii tourism authority on Hawaii's tourism industry, employment in Hawaii, state taxes, and the State's lesser known and underutilized destinations; and
 - (vi) Cooperate with the Hawaii tourism authority and provide it with the above information in a timely manner;

and

- (6) Self-sufficiency standard. The department shall establish and update biennially a self-sufficiency standard that shall incorporate existing methods of calculation, and shall reflect, at a minimum, costs relating to housing, food, child care, transportation, health care, clothing and household expenses, federal and state tax obligations, family size, children's ages, geography, and the number of household wage earners. The department shall report to the legislature concerning the self-sufficiency standard no later than twenty days prior to the convening of the regular session of 2009, and every odd-numbered year thereafter. The recommendations shall address, among other things, the utilization of any federal funding that may be available for the purposes of establishing and updating the self-sufficiency standard.

~~["The department shall be the central agency to coordinate film permit activities in the State;"]~~

PART VIII

SECTION 18. The purpose of this part is to provide for the transition of various state agencies and programs that are transferred under parts II, III, IV, V, and VI of this Act.

SECTION 19. (a) All rights, powers, functions, and duties of the agencies, divisions, or programs transferred under parts II, III, IV, V, and VI, are transferred to the successor agencies as provided under those parts.

(b) All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act; except that an officer or employee whose position is no longer authorized under the General Appropriations Act of 2009 shall not be transferred.

(c) No officer or employee who has been transferred pursuant to subsection (b) and who has tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act.

(d) If a position held by an officer or employee having tenure is no longer authorized under the General Appropriations Act of 2009, the movement of an officer or employee to another position shall be subject to the appropriate collective bargaining agreement.

SECTION 20. (a) Nothing in this Act shall be deemed to affect the civil service status of any civil service member transferred to the Hawaii tourism authority pursuant to part VI of this Act as it existed on June 30, 2009; provided that upon the vacancy of any transferred position, the Hawaii tourism authority may hire an employee to fill the vacated position without regard to chapters 76 and 89, Hawaii Revised Statutes.

(b) No officer or employee of the State whose functions are transferred by part VI of this Act, and who is employed by the Hawaii tourism authority pursuant to this section, shall suffer any loss of salary, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act.

(c) Any officer or employee having tenure whose office or position is abolished by part VI of this Act shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position for which the officer or employee is eligible under the personnel laws of the State as determined by the head of the department of the governor.

SECTION 21. All rules, policies, procedures, guidelines, and other material adopted or developed by an agency, division, or program transferred under parts II, III, IV, V, and VI, shall be transferred to the successor agency and shall remain in full force and effect until amended or repealed by the successor agency.

SECTION 22. All records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, or acquired or held by an agency, division, or program transferred under parts II, III, IV, V, and VI, shall be transferred to the successor agency.

SECTION 23. Unless specifically required by this Act, this Act shall not affect the membership or term of any appointed member of a board or other policy-making or advisory body transferred under parts II, III, IV, V, and VI. Such a member shall continue to serve on the board or other body for the member's term without necessity of reappointment.

SECTION 24. The legislative reference bureau shall review this Act for the purpose of making recommendations as to the appropriate placement of parts or chapters of the Hawaii Revised Statutes affected by this Act. The legislative reference bureau shall submit its findings and recommendations, accompanied by any necessary proposed legislation, to the legislature by January 1, 2010.

SECTION 25. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

PART IX

SECTION 26. The provisions of this part shall supersede section 15 of House Bill 1271 H.D. 3, S.D. 2, C.D. 1, of the 2009 regular session. There is established within the department of business, economic development, and tourism, the position of energy program administrator. The employment status of the incumbent employee occupying the energy program administrator position on the effective date of this Act shall retain the employee's civil service status which shall not be affected by any Act enacted in the regular session of 2009.

PART X

SECTION 27. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 28. This Act shall take effect upon its approval."

Representative Chong moved that Floor Amendment No. 13 be adopted, seconded by Representative B. Oshiro.

Representative Marumoto rose to speak in opposition to the proposed Floor Amendment, stating:

"Mr. Speaker, I'm in opposition to this amendment. I realize it does conform more or less to the budget, but nevertheless, I was opposed to the budget provisions of this area. This is not a friendly amendment. This is a very hostile one, and this one would blast the Department of Business and Economic Development to smithereens. It would take the small business ..."

The Chair addressed Representative Marumoto, stating:

"Representative Marumoto, could you confine your remarks to the motion of the Floor Amendment? You may address the content of the amendment, because it is a Floor Amendment, which is before this Body, but please confine your remarks to the Floor Amendment."

Representative Marumoto continued, stating:

"Mr. Speaker, I cannot address the contents of the amendment? Okay, one provision of it would move the small business regulatory review board to the Department of Consumer Affairs, and this would ..."

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

"A point of order, Mr. Speaker. I don't believe that issue is encompassed in this Floor Amendment."

Representative Marumoto continued, stating:

"I believe that it is. It's mentioned on the bottom of page one."

At 10:34 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:36 o'clock p.m.

Representative Marumoto continued, stating:

"Thank you, Mr. Speaker. Perhaps I'm reading the amendment incorrectly, but it did mention the Small Business Regulatory Board on the bottom of page one. I will certainly speak on this issue on Final Reading, but at this time, although you may purport to have improved the bill, as a whole, I am totally opposed to throwing out the Tourism Director and I hope she still has a job, but perhaps she's in the Governor's Office. And I will address the entire issue on Thursday. Thank you."

Representative Thielen rose to speak in opposition to the proposed Floor Amendment, stating:

"Thank you, Mr. Speaker. Mr. Speaker, I'm rising to speak against the amendment, and I don't believe it is a friendly amendment, Mr. Speaker. It's certainly not friendly to the Department of Business, Economic Development and Tourism, which was reorganized under the budget bill. A very strange way to do it when we're talking about a department that is absolutely critical to Hawaii, and to Hawaii's renewable energy future.

"I understand that the Deputy Director no longer will exist after a certain period of time. And while this is just merely cleaning up a bill, I think the bill was so defective because it was done in such a strange way in the budget. The bill should have had a hearing and gone through the whole process so people would be able to weigh in on this reorganization.

"I don't think this is going to help the renewable energy future of Hawaii. I oppose the unfriendly amendment. And I oppose the bill in chief and will do so more in detail on Thursday. Thank you."

Representative Ward rose to speak in opposition to the proposed Floor Amendment, stating:

"Mr. Speaker, I also rise in opposition to this amendment. Mr. Speaker, the purpose of DBEDT is economic development, job creation. It's not just creating busy work for reorganization. This is a time of dire economic need. We need the intelligentsia, we need the power, the brains, the wherewithal and the momentum in DBEDT to focus on the economy. Not focus on redesigning who they are and what they do. This is the wrong time for a bill like this. Thank you very much, Mr. Speaker. You can't avoid the appearance that it's punitive. Thank you."

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

Representative Ching rose to speak in opposition to the proposed Floor Amendment, stating:

"Thank you, Mr. Speaker. I also oppose this amendment, and for the same reasons as the Representatives of Hawaii Kai and Kailua. I ask that their words be entered as my own," and the Chair "so ordered." (By reference only.)

Representative Pine rose and asked that the Clerk record a no vote for her on the proposed Floor Amendment, and the Chair "so ordered."

Representative Souki rose to speak in support of the proposed Floor Amendment with reservations, stating:

"Mr. Speaker, I wish to speak with strong reservations against this amendment. It has always been my displeasure at the way that this DBEDT shredding has been handled, and I am tempted to table this motion, but I will wait for House Bill 1260 and have further discussion on it. Thank you, very much."

Representative M. Oshiro rose to speak in support of the proposed Floor Amendment, stating:

"Mr. Speaker, I rise in strong support of this amendment. The purpose of this amendment is to fix several drafting errors that occurred when this measure was released from the Conference Committee, upon agreement of the Conferees. What this amendment would basically do, is it would correct an inadvertent drafting error, where the Aloha Tower Development Corporation was transferred to the Department of Transportation. As some of the members may know, in the ongoing discussions in public, through public hearings on House Bill 1260, we did solicit input and receive input and written testimony from the departments and various stakeholders. It was determined that that current move would probably be premature at this date in time. So, this amendment corrects that drafting error.

"It also would protect the rights under collective bargaining and civil service laws for the Film Industry Branch who will be transferred to the Hawaii Tourism Authority, and I'll say more on that on Thursday. And also, the rights, benefits and privileges under civil service and collective bargaining of the State Energy Program administrator. I'll save my remaining remarks for Thursday. Thank you, Mr. Speaker."

Representative McKelvey rose in support of the proposed Floor Amendment with reservations and asked that the remarks of Representative Souki be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

The motion was put to vote by the Chair and carried, and Floor Amendment No. 13, amending S.B. No. 387, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET," was adopted with Representatives Ching, Finnegan, Marumoto, Pine, Thielen and Ward voting no, and with Representatives Bertram and Takai being excused.

At 10:41 o'clock a.m., the Chair noted that Floor Amendment No. 13 was adopted, and that S.B. No. 387, SD 1, HD 1, CD 2, would be placed on the calendar for action on Thursday, May 7, 2009.

Conf. Com. Rep. No. 160 and H.B. No. 754, HD 1, SD 1, CD 1:

At this time, Representative Manahan offered Floor Amendment No. 14, amending H.B. No. 754, HD 1, SD 1, CD 1, as follows:

SECTION 1. House Bill No. 754, H.D. 1, S.D. 1, C.D. 1, is amended by deleting Section 11 and replacing it with the following:

"SECTION 11. For fiscal year 2010-2011, after the revenues collected under chapter 237D, Hawaii Revised Statutes, are distributed pursuant to section 237D-2(b), Hawaii Revised Statutes, 12.5 per cent of the revenues derived under section 237D-2(b)(2), Hawaii Revised Statutes, shall be deposited into the tourism special fund established under section 201B-11, Hawaii Revised Statutes, and any excess revenues shall be deposited into the general fund."

Representative Manahan moved that Floor Amendment No. 14 be adopted, seconded by Representative B. Oshiro.

At 10:42 o'clock p.m. Representative Finnegan requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:42 o'clock p.m.

Representative Finnegan rose to speak in opposition to the proposed Floor Amendment, stating:

"Mr. Speaker, actually, I'm going to be in opposition, but we're going to see this on Thursday, and I'm going to just review it a little bit more carefully, but for now, I'll be in opposition. Thank you."

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

Representative Ward rose to speak in opposition to the proposed Floor Amendment, stating:

"Mr. Speaker, I'm inclined to vote 'no,' but I have a question to the Chair of Tourism, if I may ask. If you would ..."

At 10:43 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:45 o'clock p.m.

Representative Ward continued, stating:

"Yes, my fears have been allayed, but yet increased, Mr. Speaker. The amount that we are assuming is going into marketing is presumed upon the new 2% increase in the TAT tax, which I think you and everyone knows I'm adamantly against. Thank you, Mr. Speaker."

Representative Marumoto rose to speak in opposition to the proposed Floor Amendment, stating:

"Yes, I am voting 'no' on this measure. I feel that this is another coffin nail in the Department of Business, Economic Development & Tourism. Thank you."

Representative Thielen rose to speak in opposition to the proposed Floor Amendment, stating:

"Thank you. Mr. Speaker, a 'no' vote for me too, because of the nexus with the increase in the TAT tax to the visitor industry."

Representative Pine rose and asked that the Clerk record a no vote for her on the proposed Floor Amendment, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and Floor Amendment No. 14, amending H.B. No. 754, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TOURISM AUTHORITY," was adopted with Representatives Ching, Finnegan, Marumoto, Pine, Thielen and Ward voting no, and with Representatives Bertram and Takai being excused.

At 10:46 o'clock a.m., the Chair noted that Floor Amendment No. 14 was adopted, and that H.B. No. 754, HD 1, SD 1, CD 2, would be placed on the calendar for action on Thursday, May 7, 2009.

Conf. Com. Rep. No. 132 and S.B. No. 199, SD 1, HD 1, CD 2:

At this time, Representative Wakai offered Floor Amendment No. 15, amending S.B. No. 199, SD 1, HD 1, CD 2, as follows:

SECTION 1. Senate Bill No. 199, S.D. 1, H.D. 1, C.D. 2, is amended by deleting Section 2.

SECTION 2. Senate Bill No. 199, S.D. 1, H.D. 1, C.D. 2, is amended by renumbering Section 3 as Section 2.

SECTION 3. Senate Bill No. 199, S.D. 1, H.D. 1, C.D. 2, is amended by renumbering Section 4 as Section 3 and by amending subsection (a) in section 235-110.9, Hawaii Revised Statutes, to read as follows:

"(a) There shall be allowed to each taxpayer subject to the taxes imposed by this chapter a high technology business investment tax credit that shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the investment was made and the following four years provided the credit is properly claimed[-]; provided further that for investments made on or after May 1, 2009, and before January 1, 2011, the sum of all high technology business investment tax credits available (over five years as set forth below) to all taxpayers investing in a single qualified high technology business in a single calendar year shall not exceed \$10,000,000; provided further that for investments made on or after May 1, 2009, and before January 1, 2011, high technology business investment tax credits may only be claimed to the extent that the qualified high technology business in which the investment was made has received credit allotments from the department, as set forth in subsection (i). The tax credit shall be as follows:

- (1) In the year the investment was made, for investments made prior to May 1, 2009, thirty-five per cent[;], and for investments made on and after May 1, 2009, and before January 1, 2011, twenty per cent;
- (2) In the first year following the year in which the investment was made, for investments made prior to May 1, 2009, twenty-five per cent[;], and for investments made on and after May 1, 2009, and before January 1, 2011, twenty per cent;
- (3) In the second year following the investment, twenty per cent;
- (4) In the third year following the investment, for investments made prior to May 1, 2009, ten per cent[;], and for investments made on and after May 1, 2009, and before January 1, 2011, twenty per cent; and
- (5) In the fourth year following the investment, for investments made prior to May 1, 2009, ten per cent[;], and for investments made on and after May 1, 2009, and before January 1, 2011, twenty per cent;

of the investment made by the taxpayer in each qualified high technology business, up to a maximum allowed credit in the year the investment was made, [~~\$700,000;~~] \$700,000 for investments made prior to May 1, 2009, and \$400,000 for investments made on and after May 1, 2009, and before January 1, 2011; in the first year following the year in which the investment was made, [~~\$500,000;~~] \$400,000 for investments made prior to May 1, 2009, and \$400,000 for investments made on and after May 1, 2009, and before January 1, 2011; in the second year following the year in

which the investment was made, \$400,000; in the third year following the year in which the investment was made, [~~\$200,000;~~] \$200,000 for investments made prior to May 1, 2009, and \$400,000 for investments made on and after May 1, 2009, and before January 1, 2011; and in the fourth year following the year in which the investment was made, [~~\$200,000-~~] \$200,000 for investments made prior to May 1, 2009, and \$400,000 for investments made on and after May 1, 2009, and before January 1, 2011. For purposes of this section, "taxpayer" shall mean the taxpayer that is ultimately liable to pay any applicable taxes and shall not include a partnership, limited liability company, or other pass-through entity; provided that any direct or indirect investment made into a qualified high technology business by a partnership, limited liability company, or other pass-through entity shall be deemed to have been made by its respective partners, members, or other beneficial owners who are the taxpayers that are ultimately liable to pay any applicable taxes."

SECTION 4. Senate Bill No. 199, S.D. 1, H.D. 1, C.D. 2 is amended by deleting subsection (i) in section 235-110.9, Hawaii Revised Statutes, and replacing it with a new subsection (i) to read as follows:

"(i) All claims of high technology business investment tax credits under this section for investments in qualified high technology businesses made after on and after May 1, 2009, and before January 1, 2011, shall be made subject to the following aggregate and periodic credit caps and credit allotment procedures:

- (1) Aggregate and periodic credit caps for all new investments. The maximum amount of high technology business investment tax credits available under this section shall not exceed the following amounts for the following periods:
 - (A) \$80,000,000 to be claimed over the five-year period set forth in subsection (a) for investments made beginning on May 1, 2009, and through December 31, 2009; and
 - (B) \$80,000,000 to be claimed over the five-year period set forth in subsection (a), for investments made during the calendar year beginning on January 1, 2010, and ending on December 31, 2010, plus any carryover credit allotments available from unused credit allotments from the prior calendar years and in subparagraph (A).
- (2) Credit allotments. Beginning on May 1, 2009, the department shall provide credit allotments to qualified high technology businesses up to the maximum amount of high technology business investment tax credits as provided in paragraph (1). A qualified high technology business may apply for a credit allotment of high technology business investment tax credits in any amount not to exceed an aggregate of \$10,000,000 for investments it receives in a single calendar year (to be claimed over the five-year period set forth in subsection (a)) for investments, as defined in section 235-1, made in a qualified high technology business in the same calendar year. A qualified high technology business may apply for an allotment of high technology business investment tax credits, on a form prescribed by the department, or by a duly executed written letter or statement delivered to the department prior to the time that the department has established and published a prescribed form, on or after the day on which that qualified high technology business has received the investment for which that allotment is applied for; provided that in order to apply for that allotment, the qualified high technology business shall attest and declare to the department the amount of investment that the qualified high technology business has received for which it is applying for that allotment; provided further that the qualified high technology business submits to the department a copy of the checks, bank deposit receipts, wire transfer confirmations, or other evidence reasonably acceptable to the department to verify that the qualified high technology business has received the investment for which the allotment is being applied for. All allotments issued by the department shall be made on a first to apply basis only. Notices of all allotments and denials thereof shall be certified in writing and delivered to the respective qualified high technology business by the department by email, fax, United States Postal Service, or other means reasonably requested by the qualified

high technology business and approved by the department, within one business day of the department's receipt of the application for that allotment. If a qualified high technology business does not receive the full allotment of high technology business investment tax credits applied for, the qualified high technology business may, at an investor's option, refund to that investor all or any portion of that investor's investment for which allotment was applied for. An investor's right to receive such refund of its investment shall not negate or invalidate an investment's status as being nonrefundable or at risk, as required by section 235-1. Beginning no later than July 1, 2009, the department shall post on its website in a manner accessible to the general public the total amount of allotments made, and the total unused allotments of credits remaining available under this subsection, which posting shall be updated by the department within one business day of making any allotment of credits pursuant to this subsection.

- (3) Non-transferable nature of allotments. All credit allotments issued by the department shall be non-transferable, non-negotiable, and non-assignable; provided that a statutory conversion in the form of business entity shall not be considered a transfer or assignment.
- (4) Credit claims subject to audit. Notwithstanding a credit allotment under this section, every claim for credit shall be subject to audit or review by the department."

SECTION 5. Senate Bill No. 199, S.D. 1, H.D. 1, C.D. 2, is amended by renumbering Sections 5, 6, 7, 8, 9, and 10, as sections 4, 5, 6, 7, 8, and 9, respectively.

Representative Wakai moved that Floor Amendment No. 15 be adopted, and requested a roll call vote at the appropriate time, seconded by Representative B. Oshiro.

Representative Wakai rose to speak in support of the proposed Floor Amendment, stating:

"Thank you, Mr. Speaker. And thank you for the Representative from Aiea. That was a pleasant surprise. Since tax credits are about numbers, let's take a look at some of the tech numbers in Hawaii. Over the past nine years, the State has created a \$3 billion a year industry, and that industry is growing. The tech industry now accounts for about 5% of our entire economy. Today we have more than 31,000 tech jobs in the State. Each of those jobs pay an average wage of \$63,000 dollars a year. That is 38% higher than the average wage-earner in the State.

"And these promising numbers are primarily due to the visionary tax incentive created in the year 2000. And during the course of Act 221, and then Act 215, during its 10 year lifespan, it's expected to cost us, as taxpayers through credits, \$400 million. But, the upside is, it's generated \$1.2 billion in investments. The two-for-one multiplier that is in the current Act 221 and 215, that multiplier is crucial to the viability of this tax incentive.

"The Floor Amendment you have in front of you has a number of significant changes, which I hope you will find acceptable. One, is that it provides a cap. A cap of \$10 million per QHTB, or per tech company. The current language in our draft of S.B. No. 199 has absolutely no caps in it. It also has an aggregate cap, so industry wide, \$80 million is the maximum the technology industry can take in tax credits on an annual basis.

"Those two caps themselves, actually will save the State of Hawaii, according to DoTAX's figures, \$151 million. According to DoTAX figures, the current language of Senate Bill 199 will save us \$149 million. So these caps will actually save us an extra \$2 million in our budgetary constraints this year. And, the two-for-one ratio allocation is key to bringing in foreign and outside investments. And those who are outside of Hawaii have zero tax liability here, and need to be lured here with some type of incentive, and that is where the multiplier comes in. And in lieu of taking a tax credit, you get to exchange that tax credit with a local investor, and the Mainland investor gets a larger equity stake in the local startup.

And potentially, when that startup becomes profitable, and hits a homerun, the investor, the outside investor, gets more of the profits from seeding that company and taking that initial risk.

"It would be very foolish for us to think that if we go back to a one-two-one ratio, that the local market will fill in this void in capital for these tech companies. These outside investors certainly need to have something to mitigate the risk that they're taking. And a disproportionate tax credit allocation is not new or unique, to Hawaii or this particular act. In fact, the new federal markets tax credits have the same feature, and as long as an investment is made subject to the federal guidelines, the tax credit can be allocated in any manner that is most beneficial to the project. So, having this multiplier here, as currently stated in Act 221, is acceptable to the feds, and hopefully should be acceptable to all of us.

"Also, we made a deal with tech companies back in 2000, in its more recent evolution to Act 215, and they're basing a lot of their financial plans on assuming the credits over the course of their business lifecycle. And tech companies are banking on these in their business plan, and I feel it's so wrong for us to be changing the rules of the game while the clock is still running on all of these tech companies. If you think that tech companies gather about 40% of their investment from outside Hawaii, and with the current multiplier, that would amount to about 80% of their investment coming due to this two-for-one ratio.

"You can see that 80% of the good that I mentioned at the top of this discussion of what Act 221 has done for us, 80% of that would potentially disappear and take away all the good jobs, all the high-paying jobs that we've grown accustomed to, and hopefully we want to see grow in the future. So, Members and Mr. Speaker, I hope that you will see the value of making these amendments and allowing Act 221 to continue to do its good work, and hope you will be voting in favor of this amendment. Thank you."

Representative Thielen rose to speak in support of the proposed Floor Amendment, stating:

"Thank you, Mr. Speaker. I'm rising in strong support of the amendment, Mr. Speaker, but not in support of the underlying bill. Mr. Speaker, let me just give a few examples of how Act 221 and this amendment has helped our local people. This is one of the people that contacted me, saying:

'My husband and I were laid off. We just bought our first starter home with our own savings, and a part of a cashed-in 401k. We found work doing production and animation. And this is where Act 221 comes in. A former co-worker formed a company that works in educational multimedia design and production. We have produced many interactive, educational DVDs that sell in China, US, UK and Mexico, and with the help of Act 221, we were the first company in Hawaii to release applications for the iPhone. With Act 221, we've been able to hire local teachers, writers, camera crew, developers, programmers, illustrators, animators, audio talent, audio engineers, audio crew, producers and actors. If Act 221 is pulled, or if this amendment does not pass, all of these people will have to look for work elsewhere. And for us, it will probably mean we will be forced to leave these islands, and yes, my husband was born and raised here.'

"I go to another one, a CEO of a high tech company that was founded by investors who took advantage of Act 221 tax credits:

'Our company is based on technology invented at the University of Hawaii, to which we pay royalties for each sale we make. We're strong and growing stronger. We started with three employees at the time of our first significant Act 221 investment in December '07, and today we have 20 employees and contracts with three global electronic manufacturers. We have hired every graduate of Dr. Chiu's program in the UH Mechanical Engineering Department, and are looking to hire more as they graduate. We have brought world class talent to Hawaii, reversing the brain drain.'

"Mr. Speaker, this amendment is absolutely essential if we're going to be able to keep these talented people, these local people, here in Hawaii.

Without the amendment, I think every Member in this Chamber knows what will happen. The 'brain drain' will go on. We'll lose our young people, who will go to the Mainland, and we'll lose being the center of a high tech economy in Hawaii. And even more, and I guess this is at the very basis of my deep support for the amendment, we have the Hawaii Clean Energy Initiative. We are not going to be able to accomplish this goal of 70% renewable energy by the year 2030, without local high tech involvement. And this kind of law, the Act 221, will help us to our clean energy future. I urge everyone in this Chamber to support this amendment. This is a friendly amendment, Mr. Speaker. This really is a friendly amendment. Thank you."

Representative McKelvey rose to speak in support of the proposed Floor Amendment, stating:

"Thank you very much, Mr. Speaker. In support. First of all, speaking to the Floor Amendment and solely to it, I think this builds upon the work of the Conferees, it doesn't take away from it. It adds a little extra savings to the savings they found, and I believe it strengthens and takes care of what we've all seen, proponents and those opposed alike, have been failings of Act 221, vis-à-vis the per company cap of \$10 million and the aggregate cap of \$80 million.

"The CD 2, while well-intentioned, I believe leaves a large gap, and without that aggregate cap, we don't know what the end result will be. This gives us that end result.

"Mr. Speaker, I would like to share with you and the Members, a product of an Act 221 investment. This little machine right here, Members, audience, is a liquid-cooling system for video graphics drivers. This is five times smaller than anything that's available in the industry standard. It was created by a Hawaii company that is going to stay in Hawaii, and manufacture in Hawaii. They have secured contracts with major Asian computer firms, so that this will be the de facto video graphics liquid cooler for the major computer industry of the world. And they're in Hawaii. This little device here, Mr. Speaker, is the fruit of this investment.

"The company that invented this, Mr. Speaker, has hired over 20 people, all of whom are University of Hawaii graduates. Many of whom would probably be working in other states, for other companies, or would venture overseas for other companies and firms.

"These are the kinds of things that are happening with this investment. The multiplier, Mr. Speaker, is important because what it does is it brings not only Mainland dollars, but foreign dollars to Hawaii. Let's be clear, everyone, since the Act 2 ruling, we are an investment basket case. We are not an attractive option for investors. People have pulled their money out of the stock market, they are holding onto it, as referenced by the increase in the savings index, and they're looking to see where they can put their money. What we're trying to do is keep a tool available so we can say, if you're going to invest, don't look to a 10-33 exchange, don't look to Mexico, don't look to Australia, of course being half Australian I have to apologize to my kinsmen, but look to Hawaii. Look here to Hawaii. This company had \$6 million as a startup, \$3 million of which came from the Mainland, Czechoslovakia, and other places, to a product that is going to basically be the industry standard.

"I will tell you, I do see that there's work to be done with this. It is by far not a perfect creature. But, it has a very promising result. History has, Mr. Speaker, melted financial institutions. We know in the past that people said, 'well, Silicon Valley companies want to be next to Silicon Valley, because that is where the money is, that's where the financial institutions are.' They are not there. But history has given us, ironically, an opportunity. An opportunity to be able to bring in these dollars to Hawaii.

"The hotel industry is important. Our military industry is important. But we need to look to the future, and we need to try to bring in investments. And I think, to be honest with you, one of the whole arguments is that we've been focusing on tech, and while tech is good, Act 221 to me is an investment tool that should be applied across a broad spectrum of sectors.

"I see it as something that could bring in investment to a lot of industries. Heck, organic farms. There's a lot of good that could come from this as far as bringing in capital into Hawaii. And I guess what I would like to say is, let's not throw the baby out with the bathwater. Let's not lose sight of the forest for the trees, Mr. Speaker.

"I share your concerns of the general fund impact, believe you me, I do. But I guess that what we need to do is let's not be so hasty that we forget what we are trying to do. Now, I've heard some of our colleagues say, 'Well, this is dollars out. Dollars out from the taxpayers.' How much money, Mr. Speaker, have we spent on STEM? How much? And what are we going to get for it? And the words of a Representative that contacted me, a friend of mine from another state said, 'Thank you for going ahead and educating our future workforce.' If we're going to put money into STEM, if we're going to put money into these things, then let's do something so that when these kids graduate, there is at least, there is no guarantee, but an opportunity.

"And I think this Floor Amendment, again, builds upon the work that was done. I see this as a constructive step forward, and I also see it as a way to ensure that no matter what happens, vis-à-vis the Executive branch, that we will have the tools in place for our budget. And so Members, I just humbly ask all of you, and I know feelings are strong on this, but just consider this amendment. Consider it as a step hopefully forward in the right direction. Thank you very much."

Representative Ward rose to speak in support of the proposed Floor Amendment, stating:

"Mr. Speaker, I rise in strong support. Mr. Speaker, I offer four reasons, if I may. First, this amendment will save Act 221. Essentially, without this amendment, Act 221 dies. The second reason, this amendment will save money. The bill that is going to be without this amendment, there's basically no difference, and this will save more money, because it's going to save Act 221. Thirdly, this amendment will create jobs. This is a job creator. This is what in hard economic times we've got to be thinking about. It will create jobs.

"Mr. Speaker, in an interesting way, we've got to ask ourselves, do we want our kids and our future to continue making beds and cleaning toilets in Waikiki as the main focus of our economy? Mr. Speaker, I think we want to get away from that. I was a Member of the Finance Committee that had the opportunity to go to Ni'ihau, and we were in the 5th grade in an all Hawaiian speaking classroom. I asked one of the young men, 'What do you want to be when you grow up?' To my surprise and chagrin, Mr. Speaker, he said, 'I want to be a high tech worker.' This is Ni'ihau now. Are they the ones who are isolated, or are we the ones who are isolated here, trying to quash what otherwise is a budding and beginning industry?

"And lastly, Mr. Speaker, this amendment gives us the biggest bang for the buck. Historical case in point. A hundred years it took us to build our tourism industry. A hundred years, we are now 7 million visitors. We've got all the Conde Nast awards, etc. That hotel industry brings in \$6 billion. Here we have a high tech industry only 10 years old and brings in \$3 billion. In just 10 years, we've got half of what we did with the tourism industry. So again I ask, do we have leverage for this? Of course we have, because we have a multiplier effect, Mr. Speaker. The way that we leverage the industries, for example, the multiplier effect of government is 1.5. Educational services get 2.1. The multiplier for health services, 2.3. Construction, 1.9. Agriculture, 1.9. Accommodations, 1.9. Retail trade, 1.8. Real estate, 1.4. But you know, Mr. Speaker, what high tech leverage is? 3.0 and above. Every dollar we put in, we get three out.

"For those who are saying that this costs too much money, well of course, if you only have a cost and no benefit, and a benefit and no cost. You've got to have both of those. So when you say, 'Here's the cost,' please do remember that there's a benefit with the cost. And those who are saying this is a drain on the treasury are simply saying this is a cost without benefit. Because the multiplier, Mr. Speaker, is really what this is all about. Restructuring the economy is what this is all about, and giving us something other than a visitor industry. We've got the movement.

We've got the roll. We have to stay with it. This is a very important bill, this is a very important amendment. Thank you, Mr. Speaker."

Representative Ching rose to speak in support of the proposed Floor Amendment, stating:

"Thank you. In support of the amendment, Mr. Speaker, however not in support of the underlying bill. I will not go on very long, because I think that points have been made by my colleagues, particularly the one from Maui and a few others, but I wanted to reiterate that the flow that this Act seems to have created, from not just the Mainland, but around the world. This is what the economy is today. We have a global economy, and incentives such as these create that flow. We don't want to cut off that flow.

"So, on that, as well as the support for the energy industry, I think that is the future. It is an opportunity for us, as well as keeping our word. I think keeping our word in business is an important part of knowing that we're open for business. Thank you."

Representative Finnegan rose to speak in support of the proposed Floor Amendment, stating:

"Thank you, Mr. Speaker. In strong support, but I just have a couple points. Thank you, very much. In my strong support, I do want to clarify a couple things, and that is, this is a compromise bill. The way that I see this in looking forward, when we talk about savings, savings in tax money in being able to balance the budget, you have to realize, for those who are strong Act 221 supporters, that anything that you try to restrict in tax incentives means that you're also restricting investment. So, the way that I see this, I think this is a very good compromise bill, where it allows us to take a look, and we need to understand that there are challenges in balancing the budget right now, and we're facing those challenges, so we need to compromise. However, this, in my opinion does also affect future investment that could come to this island because of the cap.

"But, this is the best thing that we can do for the future when we're strapped and we're trying to balance the budget, as well as continue investment in Hawaii.

"Mr. Speaker, another thing that I just kind of wanted to mention is, my husband and I went to visit the company that does this cooling device that the Representative from Maui was talking about. And just to put all of that into layman's terms, because I'm not a computer person, and I'm not a 'techie,' but my computer geek husband told me, 'Wow, that is so cool, and that is going to bring a lot of money into the State.'

"And the bottom line is that's what we're looking for. We're looking for innovative opportunities like that to help Hawaii build and be sustainable for a long time to come. Thank you."

Representative Keith-Agaran rose to disclose a potential conflict of interest, stating:

"Yes, Mr. Speaker. I'd like to have a ruling on a possible conflict. I'm affiliated with a company that has invested in a qualified high tech company," and the Chair ruled, "no conflict."

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

"Mr. Speaker, I need a ruling on a potential conflict. My accounting firm services qualified high tech businesses. I also own investments in qualified high tech businesses."

At 11:07 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:12 o'clock p.m.

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

"Yes, Mr. Speaker. May I have a ruling on a potential conflict? My conflict is that I service qualified high tech businesses in my firm. I also own investments in a qualified high tech business," and the Chair ruled, "no conflict."

Representative Choy continued in opposition to the proposed Floor Amendment, stating:

"Thank you, Mr. Speaker. I'd like to rise in strong opposition of the Floor Amendment. Mr. Speaker, none of us in this room, I think, are against the high-tech industry. And none of us here are against diversifying the economy. But let's get to the crux of this thing, and it's the multiplier. This particular Floor Amendment keeps the multiplier. And everybody talks about two-to-one, but actually, it can be three-to-one, four-to-one, five-to-one. And any time we talk about a multiplier in tax credits, we're talking about a tax shelter.

"The underlying bill limits the multiplier to one-to-one. This particular Floor Amendment allows the multiplier to continue. What we're actually doing here, in our original bill, is to limit the multiplier to one-to-one. This Floor Amendment allows the multiplier to continue.

"I'd also like to speak to some of the remarks that were made. According to the DoTAX report, from the years 2002 to 2007, this particular credit generated 2,245 jobs. Not the 31,106, which is the entire tech sector. The other thing is, who claims these credits? Only 1,033 taxpayers claimed 95% of the credit. Now, the remark was made that this credit only cost us \$400,000. Through a certain period of time, it did cost \$400,000. But if you let the credit run its entire life, the total cost of the credit is over a billion dollars. And, DoTAX has also said each job created cost \$533,000.

"As I said before, we are not against the tech industry or diversifying our economy. But the multiplier here is troublesome, because the multiplier constitutes a tax shelter, and right now, in our economic times, we cannot afford a tax shelter. If this amendment goes through, it's going to cost the State another, well this is a guess like anybody else, this is an estimate, another \$160 million. That's a lot of money.

"Mr. Speaker, we spent the last couple of months increasing taxes, cutting benefits, reducing workforce, and yet, we're going to give the top taxpayers with AGIs over \$200,000 continued tax breaks. Mr. Speaker, I'm in strong opposition to this amendment, and again, the multiplier is something that we need to remove. Thank you."

Roll call having been requested, the motion that Floor Amendment No. 15, amending S.B. No. 199, SD 1, HD 1, CD 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," be adopted, was put to vote by the Chair and failed to carry on the following show of ayes and noes:

Noes, 31: Aquino, Cabanilla, Carroll, Chang, Chong, Choy, Coffman, Evans, Har, Herkes, Ito, Karamatsu, M. Lee, Magaoay, Manahan, Marumoto, Mizuno, Nakashima, B. Oshiro, M. Oshiro, Pine, Rhoads, Sagum, Say, Souki, Takumi, Tokioka, Tsuji, Wooley, Yamane and Yamashita.

Ayes, 18: Awana, Belatti, Berg, Brower, Ching, Finnegan, Hanohano, Keith-Agaran, C. Lee, Luke, McKelvey, Morita, Nishimoto, Saiki, Shimabukuro, Thielen, Wakai and Ward.

Excused, 2: Bertram and Takai.

UNFINISHED BUSINESS

At this time, the Chair stated:

"Members, we are now back to Part I of the Order of the Day, fiscal House Bills and Senate Bills. The Conference Committee Reports listed in this section as reflected on pages 1 to 6 will be deferred to Thursday, May 7th. We will take these measures after passage of the State budget."

Conf. Com. Rep. No. 36 and H.B. No. 982, HD 3, SD 1, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 48 and H.B. No. 994, HD 1, SD 2, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 50 and H.B. No. 1471, HD 2, SD 1, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 77 and S.B. No. 1107, SD 2, HD 2, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 93 and S.B. No. 1206, SD 1, HD 1, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 94 and S.B. No. 1665, SD 2, HD 1, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 102 and S.B. No. 1218, SD 2, HD 2, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 104 and S.B. No. 266, SD 2, HD 2, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 106 and S.B. No. 1352, SD 2, HD 2, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 109 and S.B. No. 109, SD 2, HD 3, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 111 and H.B. No. 381, HD 2, SD 1, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 123 and H.B. No. 343, HD 1, SD 2, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 126 and H.B. No. 1807, HD 1, SD 2, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 130 and H.B. No. 1504, HD 1, SD 2, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 134 and S.B. No. 423, SD 1, HD 2, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 140 and S.B. No. 1202, SD 2, HD 2, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 148 and S.B. No. 1674, SD 2, HD 2, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 149 and S.B. No. 43, SD 2, HD 2, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 151 and H.B. No. 427, HD 1, SD 1, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 152 and H.B. No. 1627, HD 2, SD 2, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 153 and H.B. No. 1628, HD 1, SD 2, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 154 and H.B. No. 1483, HD 1, SD 1, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 155 and H.B. No. 1678, HD 1, SD 2, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 156 and H.B. No. 34, SD 1, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 161 and H.B. No. 899, HD 1, SD 1, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 162 and H.B. No. 1364, HD 1, SD 1, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 165 and H.B. No. 900, HD 2, SD 1, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 166 and H.B. No. 300, HD 1, SD 2, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 168 and S.B. No. 21, SD 1, HD 1, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

Conf. Com. Rep. No. 171 and S.B. No. 884, SD 2, HD 1, CD 1:

By unanimous consent, action was deferred to May 7, 2009.

SUSPENSION OF RULES

On motion by Representative Evans, seconded by Representative Pine and carried, the rules were suspended for the purpose of considering certain House bills and Senate bills for Final Reading by consent calendar. (Representatives Bertram and Takai were excused.)

CONSENT CALENDAR

UNFINISHED BUSINESS

At this time, the Chair stated:

"Members, at this time there will be no discussion on these items which have been agreed upon by this Body for placement on the Consent Calendar. For those who would like to submit written comments for or against, you will be given the opportunity. Before we do that the Chair will remind you, please remember to submit to the Clerk the list of House Bills on the Consent Calendar which you will be inserting comments on, in support or opposition, into the Journal. This must be done before the adjournment of today's Floor Session."

Conf. Com. Rep. No. 6 and H.B. No. 1422, HD 1, SD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1422, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise in support of House Bill 1422 Conference Draft 1. This measure will allow the counties to remove abandoned motor vehicles from private roads. Through this measure the counties may remove abandoned vehicles on private roads if the vehicle is deemed inoperable and if the owner or at least one of the co-owners of the private road requests the county's authority, in writing, for the removal of the vehicle. The owner of the private road requesting the removal will be required to pay the county for the removal and also has to agree to indemnify and hold the county harmless for any claims against the county for the removal and disposal of the vehicle. This measure also has a life span of six months.

"Currently, the counties can remove abandoned vehicles that are on any public highway or other public property, but not on private roads. While the law already allows a property owner to remove vehicles abandoned on their private property, there are instances when your typical tow job will not suffice. Your Committees on Transportation and Judiciary received testimony from residents who live on private roads and those residents have stated that some of the abandoned vehicles are obviously inoperable and deteriorating and are posing safety and health risks to residents and could cause harm to the environment. There have even been instances where emergency vehicles could not access the homes in need of their services. Mr. Speaker, I have seen some of the photos that were submitted with the testimony and something needs to be done; tree branches are literally resting on some of these vehicles; when it rains water may collect inside these vehicles serving as breeding grounds for mosquitoes and who knows what other vermin may live in these vehicles. Another valid concern that was raised by residents who live on some of these private streets is that the vehicles mar the overall appearance of the street and devalue the homes there.

"Mr. Speaker, as written, this measure will have little to no fiscal impact to the counties as the owner of the private road requesting the removal of the vehicle will have to pay the county for the costs incurred for the removal and will also indemnify and hold the county harmless for any claims. For these reasons I support this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1422, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ABANDONED VEHICLES," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 7 and H.B. No. 1057, HD 1, SD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1057, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE OF HAWAII COLLEGE SAVINGS PROGRAM," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 9 and H.B. No. 632, HD 1, SD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 632, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO POLICY ADVISORY BOARD ON VETERANS' SERVICES," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 10 and H.B. No. 615, HD 1, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 615, HD 1, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I support HB 615, H.D. 1, S.D. 1, which beams Hawaii's harassment law directly into the Twenty-First Century. This bill would provide that protection from unwanted harassment extends to all forms of electronic communication, not just phone calls and emails: stalking by texting or 'tweep' is as menacing and unwelcome as other obsessive behavior. Today's evolving technology has given the villains among us other ways to harass and torment their victims. This bill updates our statute to help address this critical issue.

"I urge my colleagues to vote in favor of the bill."

Representative Karamatsu's written remarks are as follows:

"I rise in support of House Bill 618, House Draft 1, Senate Draft 2, Conference Draft 1, Relating to Harassment.

"The purpose of this measure is to keep up with technology by updating Hawaii's harassment and harassment by stalking laws by including the definition of electronic communication as defined in the Hawaii Revised Statutes section 711-1111(2), which means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system. Unfortunately, many individuals are harassing and stalking others through the Internet. Harassment and stalking can cause annoyance, mental distress, and safety concerns. It is our goal to protect our community from harassment and stalking done in person or through technology. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 615, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HARASSMENT," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 12 and H.B. No. 1071, HD 3, SD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1071, HD 3, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE SERVICERS," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 13 and H.B. No. 1351, HD 2, SD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1351, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PRIVATE AGRICULTURAL PARKS," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 15 and H.B. No. 1045, HD 1, SD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1045, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 16 and H.B. No. 975, HD 1, SD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 975, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker I rise in support of House Bill 975 Conference Draft 1. This measure will provide additional flexibility to the operations of the Agribusiness Development Corporation (ADC) by authorizing ADC to acquire, or contract to acquire by grant, purchase, or gift, the real,

personal, or mixed property comprising an agricultural water system to provide water for irrigation of agricultural lands.

"This bill will greatly assist the ADC in fulfilling its mission of facilitating the transition of former plantation land and water systems to diversified agriculture. Initially the City and County of Honolulu had concerns with this measure due to the possibility that lots may be subdivided and recorded without the approval of the county. If this happens, there would be no official record and the lots may not be recognized and could therefore hamper future building and or development permits. Mr. Speaker the bill was amended to alleviate the concerns of the City and County of Honolulu by clarifying that the conveyance of agricultural water system property to ADC will be exempt from county subdivision requirements so long as no additional lots of record are created.

"Mr. Speaker, as agriculture is a priority of the State, so is our irrigation systems. There is little reason to subject the transfers of water systems to an unnecessary regulatory process that will only take time and money and will not provide any additional benefit to the farmers of the State."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 975, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL WATER SYSTEMS," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 18 and H.B. No. 618, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 618, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Karamatsu's written remarks are as follows:

"I rise in support of House Bill 618, Senate Draft 2, Conference Draft 1, Relating to the Uniform Prudent Management of Institutional Funds Act.

"The purpose of this bill is to enact the Uniform Prudent Management of Institutional Funds Act to conform the law governing the spending of charitable endowment funds with modern investment and expenditure practices.

"Hawaii law prohibits charities from expending endowment funds that fall below the principal of the endowment (historic dollar value). However, under current economic conditions, many endowments may be below their historic dollar value, preventing charities from funding their various programs.

"Under this bill, allowable endowment fund expenditures are based upon the value of the fund's entire portfolio, rather than its historic dollar value. This improves the ability of charities to address fluctuations in the value of the endowment.

"This bill also streamlines the process for releasing restrictions on the management, investment, or purpose of endowment funds that do not exceed certain value thresholds. Charities will be able to release these restrictions without court approval if the value of the fund is below \$250,000 and after obtaining the Attorney General's consent. For funds with a value of less than \$50,000, the charity may release restrictions without court approval after providing notice to the Attorney General. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 618, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS ACT," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 21 and H.B. No. 1103, SD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1103, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO FEDERAL FINANCIAL ASSISTANCE FOR INDEPENDENT LIVING SERVICES AND CENTERS," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 22 and H.B. No. 1070, SD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1070, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CODE OF FINANCIAL INSTITUTIONS," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 23 and H.B. No. 814, HD 2, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 814, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Magaoay's written remarks are as follows:

"Mr. Speaker, I rise in strong support of House Bill 814 HD2, S.D. 2, C.D. 1, Relating to Nurse Aides.

"The purpose of House Bill 814 HD2, S.D. 2, C.D. 1 is to specify the renewal period for the recertification of certified nurse aides and to limit the number of continuing education hours for their certification.

"Mr. Speaker, this bill is important due to the fact it not only benefits our Filipino community who make up the majority of the certified nurse aide workforce but it will also benefit the people of Hawaii who are offered an alternative to expensive, institutional long term care services.

"Certified nurse aides play an integral role in providing quality health care services and serving to keep the cost of long term care affordable and available for Hawaii families. The clarification in training and recertification will ultimately benefit individuals who are in the care of certified nurse aides that work in nursing facilities participating in Medicare and Medicaid programs and in other state-licensed and state-certified health care settings.

"No compromise to the health or safety of the public will arise from this measure. Providers can still ensure licensees possess the necessary knowledge and skills while at the same time giving licensees an opportunity to update, improve, or refine their skills.

"I support the significant contributions health care professionals, volunteer nurses and instructors who dedicate themselves to improve the health of Hawaii's people and at the same time meet our high standards of health care. Thank you Mr. Speaker, and I ask my colleagues to support me on this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 814, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO NURSE AIDES," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 24 and H.B. No. 28, HD 1, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 28, HD 1, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, I am in support of HB28 HD1 – Relating to Dead Human Bodies.

"This measure would prevent the commercial exploitation of human body remains by prohibiting the sale or display of dead human bodies

including human bodies or remains that have been plastinated through the use of polymers; unless it is for the purpose of medical education or research by a university, hospital or qualified institution or is in possession of a museum facility.

"This measure will also raise the monetary penalty for the misuse of a dead human body from \$1,000 to \$5,000, or imprisonment of up to one year or both.

"While medical research is beneficial to the understanding of the human body for medical treatment, the educational or health related values do not outweigh the moral and ethical concerns regarding the possible exploitation of unconsenting human beings. The selling and buying of dead human bodies or remains reduces the human body to an article of trade and opens the door to unscrupulous individuals attempting to profit financially from those less fortunate.

"Plastination, is a process wherein human tissue is preserved by the removal of liquids and fats and then injecting it with plastic polymer. Exhibitor's claim that it is safe and without public health risks, however there is evidence that if the plastination process is not cured properly, the bodies exhibited may leak liquefied fat. This poses potential health risks, which can be complicated further by the lack of donor consent and knowledge of body origin. California Assemblywoman Fiona Ma observed at a human remains exhibit in San Francisco, "The bodies on display were porous, leaked bodily fluids and immediately raised health concerns." Testimony submitted to the House Committee on Finance on March 2, 2009 by Dr. Scott Lozanoff, Chair of Anatomy Department of the University of Hawaii John A. Burns School of Medicine states " these remains could harbor disease that would be almost impossible to track...The 'Bodies Exhibit' recently shown at Ala Moana is an example [of] a commercial display that poses potential risk in terms of the origin of material, transportation, and handling. Commercial distribution of unclaimed human bodies and parts presents a significantly greater risk if used in commercially related activities involving anatomical dissection."

"Various exhibitions of plasticized cadavers arranged to demonstrate the workings of the human body have been travelling around the world. Exhibits have been set up in Atlantic City, Fort Lauderdale, Cincinnati, Las Vegas, and New York and internationally in Budapest, Hungary, Vienna, Austria, Santiago, Chile, Madrid, Spain and Paris, France.

"Here in Hawaii, an exhibit displaying dead human bodies opened on June 14, 2008 at Ala Moana Center and ran through January 18, 2009. There is no doubt that the exhibit is a dramatic display. However, the exhibitors admit that they could not verify where the bodies came from, and this means that the human beings, while they lived, may have and most likely did not give their consent for their bodies to be used in this way after they died.

"The issue of selling, donating or gifting one's body for research or an educational purpose is important, but not germane to the central concern regarding consent or lack thereof. In this instance, it is questionable that these people gave consent and if so, whether the people understood that they would be plasticized and propped up and exhibited in this manner. Anatomical or whole body donations are negatively impacted when the public perceptions of unethical procurement and display occur. These exhibits do not come from a philanthropic educational institution; although the exhibit promoters may claim that these displays are for the educational benefit of society, the true bottom line here is profits. In a press release dated October 17, 2008 from Bodies...The Exhibition by Premiere Exhibitions, Inc. indicates that its exhibit had been seen by more than 10 million visitors. At an entry fee of \$25 to \$30 per person, that calculates to approximately \$300 million in revenue. According to testimony submitted February 10, 2009 to the House Committee on Judiciary by Executive Director of the Laogai Research Foundation, Harry Wu, the contract between Dalian Hoffen Bio Technique Company in China a supplier of plastinated specimens and Premiere Exhibition Inc. is worth about \$25 million.

"These exhibits of plasticized cadavers have generated controversy over human rights violations. Questions of who are these people and where do they come from remain unanswered. New York Attorney General Andrew

Cuomo concluded his investigation of one such exhibitor finding, "The grim reality is that Premier Exhibitions has profited from displaying the remains of individuals who may have been tortured and executed in China. Despite repeated denials, we now know that Premier itself cannot demonstrate the circumstances that led to the death of the individuals. Nor is Premier able to establish that these people consented to their remains being used in this manner. Respect for the dead and respect for the public requires that Premier do more than simply assure us that there is no reason for concern." On April 21, 2009, in Paris, France, a judge ordered the organizers of "Our Body: The Universe Within," which had been open to the public for the two months to shut down the exhibit or face a \$25,862 a day fine. According to brietbart.com, a French news source, the court "ruled that seeking commercial gain from exhibiting dead bodies was a violation of the respect owed to the human body." In March 2009, in Venezuela, the government shut down an exhibit saying "organizers misled customs inspectors by describing the bodies as plastic."

"By banning the commercial display of dead human bodies, Hawaii becomes part of a greater global movement in ensuring the ethical treatment of human body remains, including those that have been plastinated. Respect for the human body does not cease with death and the decedents remains must be treated with dignity and decency.

"Mr. Speaker, I would also like to thank the following persons and organizations for their assistance and support for this measure: California Assemblywoman Fiona Ma and her staff, Pennsylvania Representative Mike Fleck and his staff, Sarah Redpath Director of No Bodies 4 Profit, Dr. Scott Lozanoff, Chair of Anatomy Department of the University of Hawaii John A. Burns School of Medicine, Dr. Marita Nelson, Professor Emeritus University of Hawaii Department of Pathology, Dr. Angel Yanagihara, University of Hawaii Pacific Biosciences Research Center, Mr. Harry Wu, Executive Director of the Laogai Research Foundation, Mr. John White, Mr. Richard Hennessey, and Dr. Hong Jiang, members of Falun Dafa, and Mr. Glennon Gingko a concerned citizen. A lot of credit should go to my session legislative aide, Carmen Rodrigues, for her efforts and good work ethic involved in making sure that the stakeholders and testifiers were kept abreast of the measure through each step in the process, and informed of the several different drafts of House Bill 28 and related measure, House Bill 29.

"For the reasons set forth above, I support this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 28, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO DEAD HUMAN BODIES," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 29 and H.B. No. 1696, HD 2, SD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1696, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE RENTAL INDUSTRY," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 33 and H.B. No. 1776, HD 1, SD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1776, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks are as follows:

"Mr. Speaker, I support HB 1776, H.D. 1, S.D. 1, C.D. 1. This bill will help ensure that only those legally entitled to public assistance benefits will receive financial help. Section 346-29(b), Haw. Rev. Stat. bars an applicant or recipient of public assistance who is also an inmate of any public institution from collecting public assistance from the State. However, the present administration, apparently, has failed to adequately coordinate communications between the Department of Human Services (DHS) (which administers public assistance) and the Department of Public Safety (PSD) (which manages the prison system) to identify those inmates

who are receiving public assistance while they are incarcerated. Passage of this measure is meant to prod both DHS and PSD into moving on this issue as a priority. With this change in place, enforcing the public assistance law with respect to inmates who are not entitled to receive public benefits because of their status as inmates should be more efficient.

"Under this bill, PSD will be required to provide the DHS with a monthly report listing any newly admitted inmates and requires the DHS to go over that monthly report to see if there are inmates who are simultaneously receiving public assistance. Coordination between these two departments will prevent squandering of public assistance funds. I urge my colleagues to vote for this bill."

Representative Awana's written remarks are as follows:

"Mr. Speaker, I rise in strong support. This piece of legislation is a common sense approach to addressing a long overdue problem within government.

"Before this measure was introduced, thousands of labor hours and tax payer funds were being inefficiently used. A welfare recipient who became incarcerated continued to receive benefits. Instead of discontinuing said benefits before they entered prison, the Department of Human Services issued a demand for payment to parolees upon release, informing them that an overpayment was made. House Bill 1776 will mandate the Department of Public Safety to provide the Department of Human Services with a list of inmates who are on welfare to ensure that funds are no longer misallocated and labor hours are no longer misspent.

"A simple email can help to expedite efficient government. The additional number of positions needed – 0. The additional cost to implement this measure – 0. The savings to taxpayers and government employee labor hours – priceless. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1776, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 35 and H.B. No. 271, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 271, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I support HB 271, S.D. 1, which would allow the Registrar of the Bureau of Conveyances to accept electronic documents with electronic signatures for recording, provide electronic records in response to requests and convert existing records to electronic format. This measure will promote efficiency at the Bureau of Conveyances in processing title requests and reduce paper and mailing costs for consumers. Most significant, this change should also allow our residents and businesses on the Neighbor Islands to be treated as equal citizens by giving them the same access to the critical records physically kept at the Bureau of Conveyances on Oahu.

"I urge my colleagues to vote in favor of the bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 271, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 37 and H.B. No. 1040, HD 1, SD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1040, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING

TO TORT LIABILITY," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 38 and H.B. No. 366, HD 2, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 366, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Coffman's written remarks are as follows:

"I strongly support this bill and wish to note that the definition of "take" in accordance with Hawaii Administrative Rules, Title 13, Department of Land and Natural Resources, Subtitle 4 Fisheries, Part V Protected Marine Fisheries Resources Chapter 95.

""Take" means to fish for, catch, capture, confine, or harvest, or to attempt to fish for, catch, capture, confine, or harvest, aquatic life. The use of any gear, equipment, tool, or any means to fish for, catch, capture, confine, or harvest, or to attempt to fish for, catch, capture, confine, or harvest, aquatic life by any person who is in the water, or in a vessel on the water, or on or about the shore where aquatic life can be fished for, caught, captured, confined, or harvested, shall be construed as taking."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 366, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MANTA RAYS," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 40 and H.B. No. 813, HD 1, SD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 813, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I support HB 813, H.D. 1, which designates August as Language Access Month to promote the awareness and need for language access in government services and Hawaii as a whole. Census figures indicate that Hawaii is one of the most diverse states in the nation. The United States is a nation of immigrants and Hawaii is a State built on workers who came to our shores from other countries. Often that diversity comes with certain challenges – language barriers for residents who are not fluent in English.

"This measure is important to me personally, especially since I have family members who are not fluent English speakers. HB 813 promotes awareness about the continued need for language access services. This bill also lets the public know that we, as lawmakers, are doing our part to make government services and programs accessible to everyone, regardless of what language they speak.

"I urge my colleagues to vote in favor of the bill."

Representative Magaoay's written remarks are as follows:

"Mr. Speaker, I rise in strong support of House Bill 813, H.D. 1, S.D. 1, C.D. 1, Relating to Language Access which designates the month of August as "Language Access Month."

"Mr. Speaker this bill will foster strategic actions to raise community awareness, increase the public and private sectors knowledge of language access policies, and support government agencies in meeting their mission in building their capacity to provide language access for all.

"A month dedicated to language access, as this bill proposes, is essential for ensuring that those who have limited English proficiency continue to surmount barriers to their basic needs. A month dedicated to language access will also demonstrate Hawaii's continued sensitivity to, and acceptance of different cultures in this rich diverse State. This bill will foster family strength, inter-cultural communication, respect for

differences, and unity to help one another, especially during times of crisis and sacrifice.

"Finally, even though Hawaii was successful in enacting a Language Access Law, much work is yet to be done to support our government not only to comply but to ensure that government officials and their staff have the commitment to implement the intent of the law, in spite of our limited resources."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 813, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO LANGUAGE ACCESS," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 43 and H.B. No. 1512, HD 1, SD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1512, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Karamatsu's written remarks are as follows:

"I rise in support of House Bill 1512, House Draft 1, Senate Draft 1, Conference Draft 1, Relating to Temporary Restraining Orders.

"Unfortunately, there are situations where animals are victims during a domestic dispute. This bill allows the court to issue a temporary restraining order enjoining or restraining both of the parties from taking, concealing, removing, threatening, physically abusing, or otherwise disposing of any animal identified to the court as belonging to a household, until further order of the court. In this draft of the bill, we decided to require both parties to be covered by the temporary restraining order to preclude the possibility that one party might misuse the temporary restraining order process with the intent of gaining control over and abusing an animal. We also deleted references and definitions of "pet animal" and "equine animal" that was in previous drafts to allow the court greater discretion in granting protection to animals. It is our hope that this measure will prevent the abuse of animals in the middle of domestic disputes."

The motion was put to vote by the Chair and carried, and, the report of the Committee was adopted and H.B. No. 1512, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TEMPORARY RESTRAINING ORDERS," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 54 and S.B. No. 1065, SD 2, HD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 1065, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 57 and S.B. No. 659, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 659, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise to speak in favor of Senate Bill No. 659, House Draft 1, Conference Draft 1, Relating to State Funds.

"This bill would amend the disclosure requirements for recipients of monetary awards from the State and require the Department of Accounting and General Services to manage and update the information posted on the website.

"The full disclosure of entities receiving State awards law was established pursuant to Act 272, Session Laws of Hawaii 2007. Although the funds appropriated for this Act were never released and the pilot project never completed, I remain optimistic that we, as a government, should strive to be as transparent as possible when dealing with the public's money.

"Based on this, I urge my colleagues to support this proposal to create greater transparency in the use of State funds. 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. 659, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE FUNDS," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 61 and S.B. No. 1183, SD 2, HD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 1183, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO DISCRIMINATORY PRACTICES," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 62 and S.B. No. 868, SD 2, HD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 868, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY RESOURCES," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 64 and S.B. No. 203, SD 2, HD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 203, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CONTRACTORS," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 67 and S.B. No. 914, SD 2, HD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 914, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 68 and S.B. No. 440, SD 2, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 440, SD 2, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I support SB 440, S.D. 2, H.D. 1, C.D. 1 which would streamline the process for a county's acceptance of infrastructure supporting an affordable housing project.

"Affordable housing is needed now more than ever with the ever present economic crisis of today. On Maui, there are several roads and other infrastructure built many years ago and constructed under older standards that have yet to be processed and accepted for dedication to the County. As a result, the residents of these areas have been kept in limbo regarding maintenance of those roads and drainage lines and wastewater connections serving those communities. An impasse occurs because a developer who has sold out a project is loathe to bring an undedicated roadway into compliance with changed building standards. The residents of a community are left at the mercy of this standoff.

"This bill would prevent any future community from having to suffer through a similar case of bureaucratic sluggishness and developer inertia.

A county's interest regarding infrastructure supporting affordable housing is dealt with during the entitlement process. The county's agencies comment on the projects and the county's elected policymakers – usually its county council members – determine whether a developer's requested waiver and variance from county standards are acceptable tradeoffs given the need for affordable housing. In other words, county agencies already determine the infrastructure needed and the public works standards to be met by a proposed development. This bill provides the counties a fair amount of time -- a total of ninety days --to accept or reject dedication of public infrastructure built as previously reviewed by its agencies and elected officials. I believe it achieves a reasonable balance.

"I urge my colleagues to vote in favor of the bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 440, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO COUNTIES," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 69 and S.B. No. 389, SD 1, HD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 389, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENT PROJECTS," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 70 and S.B. No. 300, SD 2, HD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 300, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR," passed Final Reading by a vote of 47 ayes to 2 noes, with Representatives Choy and C. Lee voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 72 and S.B. No. 1066, SD 2, HD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 1066, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 76 and S.B. No. 1069, SD 1, HD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 1069, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 78 and S.B. No. 1259, SD 2, HD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 1259, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL RESPONSE," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 83 and S.B. No. 91, SD 2, HD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 91, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMUNITY-BASED ECONOMIC DEVELOPMENT," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 86 and S.B. No. 113, HD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 113, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO DENTISTS," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 87 and S.B. No. 931, SD 1, HD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 931, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EPIDEMIOLOGIC INVESTIGATIONS," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 88 and S.B. No. 932, SD 2, HD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 932, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INFECTIOUS DISEASE TESTING," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 90 and S.B. No. 1195, SD 1, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1195, SD 1, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I rise to speak in support of SB 1195, S.D. 1, H.D. 2, C.D. 1 which would add references to science and technology initiatives into the Hawaii State Plan.

"On Maui, where the public-private efforts at the High Technology Research Park, and the growing significance of active technology-based education in our high schools, including such references in the State Plan certainly elevates these efforts with official acknowledgement, in theory.

"Unfortunately, some of the rhetoric exchanged this Session on supporting investment in locally-based science and technology businesses may raise questions regarding whether the State Plan is worth much more than the paper it's printed on, or as it exists digitally.

"I certainly support including Hawaii's science and technology initiatives in our planning documents. I would hope that we also work to provide concrete support for bringing those initiatives into fruition – not just with controversial tax credits – but by providing a workforce educated, trained and ready for knowledge industry jobs and by maintaining and improving what makes Hawaii a wonderful place to live and which will draw people and businesses to want to locate here.

"I urge my colleagues to vote in favor of the bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1195, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ECONOMY," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 92 and S.B. No. 1005, SD 2, HD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 1005, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLICITY RIGHTS," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 100 and S.B. No. 1664, SD 2, HD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No.

1664, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 103 and S.B. No. 1164, SD 2, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1164, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Nishimoto's written remarks are as follows:

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

"The overall purpose of the Interstate Compact is to remove educational barriers faced by children of military families due to frequent moves and deployment of military parents. States that sign onto the compact agree to work collectively with other compact states to create uniform standards of practice regarding the transfer of records, course placement, graduation requirements, redundant or missed testing, entrance age variations and other transition issues.

"With the passage of SB1164, Hawaii will join 15 other states that are part of this compact. These states include Alaska, Arizona, Colorado, Connecticut, Delaware, Florida, Indiana, Iowa, Kansas, Kentucky, Michigan, Mississippi, Missouri, North Carolina, Oklahoma and Virginia.

"The bill recognizes and addresses the issues and the uniqueness of Hawaii's state-wide school system, such as allowing Hawaii's tuberculosis clearance requirement and allowing the child of a deployed service member to continue and finish the school year at the school currently enrolled while in the custody of a guardian.

"Another unique aspect of the bill is the Interstate Commissioner selection process. Hawaii's Compact Commissioner will be recommended by the Superintendent with the approval of the Board of Education. Additionally, Senate Bill 1164 creates a State Council for Educational Opportunity for Military Children that includes the Superintendent, the three complex area superintendents, the DOE military liaison, representatives of all five military branches (including the Coast Guard), the education legislative committee chairs and other important key players.

"Since the 2008 Legislative Session, Representative K. Mark Takai and Ms. Lisa Vargas worked with numerous organizations and individuals to analyze how Hawaii supports children who frequently move into and out of our education system. Representative Takai has worked hard over the past 10 years to build a comprehensive partnership between the military and our school system to understand and recognize the unique challenges facing military children and their families. He understood that passage of this bill provides Hawaii and our schools the recognition that we deserve and tells people throughout the military circles that Hawaii's public schools are extremely supportive of our military children and their families.

"I wanted to take this opportunity to acknowledge and thank Representative Takai and Ms. Vargas for their commitment and tireless efforts to improve the quality of education for military children transitioning to and from the State of Hawaii.

"As you are aware, Representative Takai is currently Major Takai serving our country and State in the Middle East. Major Takai is serving as the Officer-in-Charge of the Camp Command for Camp Patriot, Kuwait. Despite his current duties, Major Takai continued to orchestrate and mobilize the effort to pass this bill. I want to thank Representative Takai/Major Takai for his tireless efforts in support of our nation and our State. 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. 1164, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 117 and H.B. No. 1166, HD 1, SD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1166, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PASSENGER FACILITY CHARGE SPECIAL FUND," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 118 and H.B. No. 1552, HD 2, SD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1552, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 119 and H.B. No. 610, HD 2, SD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 610, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SCIENCE AND TECHNOLOGY," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 120 and H.B. No. 586, HD 1, SD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 586, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE KANEOHE BAY REGIONAL COUNCIL," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 122 and H.B. No. 111, SD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 111, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE SALARIES," passed Final Reading by a vote of 48 ayes to 1 no, with Representative Finnegan voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 127 and H.B. No. 371, HD 2, SD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 371, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Final Reading by a vote of 47 ayes to 2 noes, with Representatives Brower and Pine voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 133 and S.B. No. 917, SD 2, HD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 917, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THIRD PARTY LIABILITY FOR MEDICAID," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 137 and S.B. No. 427, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 427, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Magaoay's written remarks are as follows:

"Thank you Mr. Speaker, I rise in support of Senate Bill No. 427, H. D. 1, C.D 1.

"Mr. Speaker, in Hawaii, TriWest is the only third-party administrator of a cost-effective, high quality network of health care providers for the nation's active and retired uniformed service members and their families, under a federal government program known as TRICARE, formerly known as CHAMPUS.

"The TRICARE program has established a managed health care program for members of the uniformed services and certain dependents. It was created in the early 1990s to supplement the existing military health care delivery system and provide health care services for active duty military personnel, military retirees, and their families by utilizing civilian health care providers. In Hawaii, these beneficiaries have access to military health care facilities, such as the Tripler Army Medical Center, and to health care clinics on military bases throughout the state. In addition, the beneficiaries also have access to medical services through the network of community health care providers that have been contracted by TriWest.

"TRICARE receives its funding as part of the annual defense appropriations budget and is administered by the TRICARE Management Activity a part of the United States Department of Defense an Office of the Assistant Secretary of Defense -Health Affairs.

"Mr. Speaker, TriWest is dedicated to providing the best possible service to military families and manages the TRICARE program for over 2.7 million beneficiaries - this is TriWest's only line of business. In Hawaii, they also employ approximately sixty employees.

"In the health care industry, TriWest's business would be characterized as a "third-party administrator." TriWest, known as a "managed care support contractor" in the applicable Federal laws and regulations, is a disbursing agent for the Federal Government in the western states, including Hawaii. Its job is to receive claims and invoices from healthcare providers, and then pay those claims according to the amounts and guidelines set by government reimbursement standards. The Government then reimburses TriWest for the amounts paid, and also pays TriWest an administrative fee for its services.

"TriWest pays Hawaii General Excise Tax on the amounts it receives from TRICARE as compensation for its services as *managed care contractor*, but it does not pay, and has never paid, tax on the reimbursement amounts. TriWest has been working with the Department of Taxation to seek confirmation that it is not subject to Hawaii General Excise Tax on such amounts. Department representatives generally have been sympathetic to TriWest's position and understanding of its desire for certainty as to its tax liability. In the process of reviewing TriWest's request for a definitive ruling in a letter from the Department, however, some technical concern was expressed as to the clarity of the legal basis for exempting such reimbursement amounts from Hawaii General Excise Tax. TriWest, therefore, is asking this body to clarify that such reimbursement amounts are not taxable to TriWest.

"Mr. Speaker, the measure we have before us is to make clear that the amounts received by TriWest from TRICARE as reimbursements are excluded from the imposition of the General Excise Tax. This clarification will be made by amending Section 237-24 of the Hawaii Revised Statutes to add a new subsection which reads, 'Amounts received by a managed care support contractor of the TRICARE program that is established under 10 United States Code chapter 55, as amended, for the actual cost or advancement to third party health care providers pursuant to a contract with the United States.'"

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 427, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAXATION," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 138 and S.B. No. 1263, SD 2, HD 3, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 1263, SD 2, HD 3, CD 1, entitled: "A BILL FOR AN ACT RELATING

TO TATTOO ARTISTS," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 141 and S.B. No. 912, SD 2, HD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 912, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PERMANENCY HEARINGS," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 144 and S.B. No. 1142, SD 1, HD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 1142, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PHYSICIAN ASSISTANTS," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 150 and S.B. No. 1329, SD 2, HD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 1329, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EARLY LEARNING," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 163 and H.B. No. 183, HD 1, SD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 183, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 170 and S.B. No. 585, SD 2, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 585, SD 2, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I support SB 585, S.D. 2 H.D. 1, C.D. 1 which will ensure access to prescription medications in rural and underserved areas. This measure allows remote dispensing pharmacies in health maintenance organization facilities, or in areas that are at least five miles from another pharmacy.

"This bill will alleviate hardships for a segment of our population who do not have convenient access to a pharmacy near their home or where the clinic does not have a pharmacist. The Island of Lanai, for example, will benefit from the enactment of this bill. Lanai is a community particularly affected by its remoteness and is an underserved population. Lanai has no pharmacy. Its residents have to travel to Oahu or Maui in order to obtain their medication. Passage of this bill will allow Lanai residents to obtain their medications from a remote dispensing pharmacy kiosk located in a clinic such as Lanai Community Health Center.

"This bill also benefits those who are members of Health Maintenance Organizations (HMO) that have clinics in rural areas, but have no pharmacist in the clinic. The HMOs, however, do have pharmacists in the hospital who can supervise the remote dispensing of medications in the clinic.

"I urge my colleagues to vote in favor of the bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 585, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO REMOTE DISPENSING," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

At 11:21 o'clock a.m., the Chair noted that the following bills passed Final Reading:

H.B. No. 1422, HD 1, SD 1, CD 1
 H.B. No. 1057, HD 1, SD 2, CD 1
 H.B. No. 632, HD 1, SD 1, CD 1
 H.B. No. 615, HD 1, SD 2, CD 1
 H.B. No. 1071, HD 3, SD 2, CD 1
 H.B. No. 1351, HD 2, SD 1, CD 1
 H.B. No. 1045, HD 1, SD 2, CD 1
 H.B. No. 975, HD 1, SD 1, CD 1
 H.B. No. 618, SD 2, CD 1
 H.B. No. 1103, SD 1, CD 1
 H.B. No. 1070, SD 1, CD 1
 H.B. No. 814, HD 2, SD 2, CD 1
 H.B. No. 28, HD 1, SD 2, CD 1
 H.B. No. 1696, HD 2, SD 1, CD 1
 H.B. No. 1776, HD 1, SD 1, CD 1
 H.B. No. 271, SD 2, CD 1
 H.B. No. 1040, HD 1, SD 2, CD 1
 H.B. No. 366, HD 2, SD 2, CD 1
 H.B. No. 813, HD 1, SD 1, CD 1
 H.B. No. 1512, HD 1, SD 1, CD 1
 S.B. No. 1065, SD 2, HD 1, CD 1
 S.B. No. 659, HD 1, CD 1
 S.B. No. 1183, SD 2, HD 2, CD 1
 S.B. No. 868, SD 2, HD 2, CD 1
 S.B. No. 203, SD 2, HD 1, CD 1
 S.B. No. 914, SD 2, HD 2, CD 1
 S.B. No. 440, SD 2, HD 1, CD 1
 S.B. No. 389, SD 1, HD 2, CD 1
 S.B. No. 300, SD 2, HD 2, CD 1
 S.B. No. 1066, SD 2, HD 1, CD 1
 S.B. No. 1069, SD 1, HD 2, CD 1
 S.B. No. 1259, SD 2, HD 2, CD 1
 S.B. No. 91, SD 2, HD 2, CD 1
 S.B. No. 113, HD 1, CD 1
 S.B. No. 931, SD 1, HD 1, CD 1
 S.B. No. 932, SD 2, HD 2, CD 1
 S.B. No. 1195, SD 1, HD 2, CD 1
 S.B. No. 1005, SD 2, HD 2, CD 1
 S.B. No. 1664, SD 2, HD 2, CD 1
 S.B. No. 1164, SD 2, HD 2, CD 1
 H.B. No. 1166, HD 1, SD 2, CD 1
 H.B. No. 1552, HD 2, SD 2, CD 1
 H.B. No. 610, HD 2, SD 2, CD 1
 H.B. No. 586, HD 1, SD 1, CD 1
 H.B. No. 111, SD 2, CD 1
 H.B. No. 371, HD 2, SD 2, CD 1
 S.B. No. 917, SD 2, HD 1, CD 1
 S.B. No. 427, HD 1, CD 1
 S.B. No. 1263, SD 2, HD 3, CD 1
 S.B. No. 912, SD 2, HD 2, CD 1
 S.B. No. 1142, SD 1, HD 1, CD 1
 S.B. No. 1329, SD 2, HD 2, CD 1
 H.B. No. 183, HD 1, SD 2, CD 1
 S.B. No. 585, SD 2, HD 1, CD 1

At this time, the Chair stated:

"One more notice for all of you, please submit your written comments for or against, prior to the adjournment of session today."

At 11:22 o'clock a.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:26 o'clock a.m., with Vice Speaker Magaoy presiding.

LATE INTRODUCTIONS

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

Representative Rhoads introduced his friend and neighbor, Mr. Kevin Mulligan.

Representative Ward introduced Mr. Tom Yamabe, a Kamilo Nui Valley farmer.

ORDINARY CALENDAR

UNFINISHED BUSINESS

Conf. Com. Rep. No. 11 and H.B. No. 590, HD 1, SD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 590, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY FACILITIES," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 14 and H.B. No. 589, HD 1, SD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 589, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY FACILITIES," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 17 and H.B. No. 1152, HD 1, SD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1152, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMITTED PERSONS' ACCOUNTS," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 19 and H.B. No. 1479, HD 2, SD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1479, HD 2, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I rise in opposition. Thank you, Mr. Speaker. This bill requires DLIR to include in certified payroll records a fringe benefit reporting form, on which contractors and subcontractors itemize the cost of fringe benefits, paid to both union and non-union laborers who perform work for the construction, alteration, or repair of public buildings and public works.

"I don't believe that this measure is necessary, Mr. Speaker. A random review involving contractors and subcontractors on public works jobs was conducted in fiscal year '07. Specially, it included 107 random investigations of contractors and subcontractors on public works. It resulted in just four first notice of violations, or NOV's, Mr. Speaker. Issued with a total of \$8,236 in wages over-time and penalties found due. \$8,000. This amounts to less than 4% of those randomly reviewed having violation. Also in that year, there were nine notices of violation that were issued as a result of 26 complaints. However, even in the investigation into the complaints, DLIR stated that it found that most were in compliance.

"Clearly this is not a problem, and I am concerned about what this measure says about how we do business in the State, Mr. Speaker. There seems to be an underlying assumption that employers in the State are trying to do wrong things, and are trying to treat their employees in a bad way. As the statistics clearly show, they are not doing that.

"So, I don't think we need to subject them to additional burdens of yet another reporting requirement that adds to the cost of doing business in Hawaii.

"Mr. Speaker, I guess the bottom line with this particular measure is, as we're moving forward, I had a conversation with members in the Carpenters' Union, and they were stating to me that overall, they have 3,000 plus people who are unemployed at this moment in time.

"If there's any reason to vote 'no' for this bill, it's to help these businesses still remain in business, and not to overburden them with reporting, and help them keep their businesses afloat and keep people employed. Thank you, Mr. Speaker."

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

"I rise in support. Mr. Speaker, as the previous speaker said, it really shouldn't be a problem, because our department went out and did some random sampling and was able to get the information readily. So, I think asking this so we are very accountable and transparent on how taxpayers' dollars are spent is a good thing. And, it really is asking for information and certifying payroll records on a fringe benefit reporting form, and it's on public work buildings and public work projects for construction, alteration and repair. I think taxpayers do want to know how their money is spent, and I do believe the construction industry wants to know how money is spent. So, I think it's a good idea. Thank you."

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

"Mr. Speaker, I am in opposition to this measure and the next one. Basically, these two measures are purportedly for public works projects, but they are actually private construction jobs, but because they use special purpose revenue bonds, we have deemed them public projects. And because of that, they have to go through a more heavily regulated reporting process and more onerous work rules. And so this is actually slowing down projects and adding costs. And this is at a time when we would like to stimulate our economy. So, I am voting 'no' on this measure and the next one. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1479, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO LABOR," passed Final Reading by a vote of 45 ayes to 4 noes, with Representatives Ching, Finnegan, Marumoto and Thielen voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 20 and H.B. No. 1676, HD 1, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1676, HD 1, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, I am in opposition to this measure. Basically, this measure is purportedly for public works projects, but they are actually private construction jobs, but because they use special purpose revenue bonds, we have deemed them public projects. And because of that, they have to go through a more heavily regulated reporting process and more onerous work rules. And so this is actually slowing down projects and adding costs. And this is at a time when we would like to stimulate our economy. So, I am voting 'no' on this measure. Thank you."

Representative B. Oshiro rose to disclose a potential conflict of interest, stating:

"Mr. Speaker, I rise to ask for a ruling on a potential conflict for CCR No. 20, HB 1676. At my law firm, I do some work on labor standards for HECO. Thank you," and the Chair ruled, "no conflict."

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 H.B. No. 1676, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC WORKS," passed Final Reading by a vote of 45 ayes to 4 noes, with Representatives Ching, Finnegan, Marumoto and Thielen voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 25 and H.B. No. 358, HD 1, SD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 358, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO DRUG TREATMENT," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 26 and H.B. No. 262, HD 2, SD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 262, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE FRAUD," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 27 and H.B. No. 1415, HD 1, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1415, HD 1, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

Representative Pine 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 Pine's written remarks are as follows:

"Mr. Speaker, I rise in Support with reservations on HB 1415 HD1 SD2 CD1, Relating to Service of Process.

"I rise in support with reservations due to the fact that the measure has an impact upon Planned Community Associations of which at this time, our State has no data on how many Planned Community Associations there are, where they are, and the size of each Planned Community Association pertaining to the number of its members.

"I quote testimony by the Department of Commerce and Consumer Protection that read, "Current law does not require planned community associations that choose to be unincorporated to make a filing with the Department and thus the Department maintains no records or filings for them."

"Mr. Speaker, two Sessions ago, efforts were made to provide numerous protection measures that are available to homeowners subjected to condominium regime laws and have these laws be made applicable to homeowners in Planned Community Associations. The Chair of the House Consumer Protection and Commerce Committee would not pass any Planned Community Association bills stating that until we know where they are, and how many and what size, no advancement of measures would transpire. Efforts were then made to pass resolutions to facilitate the answers but nothing has been done.

"Therefore Mr. Speaker, in keeping with the justification by the Chair of Consumer Protection and Commerce, the following sentence in the bill is problematic which reads:

"A cooperative housing corporation or planned community association shall make a printed copy of the policy required by this chapter available at all times at the principal point of entry to the building or community.

"Mr. Speaker, just exactly what is the principal point of entry to a Planned Community Association that has over ten roads to access it? Does this mean then that if this bill passes, the Planned Community Association within my district will be required to make a posting at each entrance since there is no principal point of entry: no gate, no marker?"

"Thank you for allowing me to rise with reservations."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1415, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SERVICE OF PROCESS," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 28 and H.B. No. 541, HD 1, SD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 541, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 541, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL SERVICE PERSONNEL," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

At 11:36 o'clock a.m., the Chair noted that the following bills passed Final Reading:

H.B. No. 590, HD 1, SD 2, CD 1
 H.B. No. 589, HD 1, SD 2, CD 1
 H.B. No. 1152, HD 1, SD 1, CD 1
 H.B. No. 1479, HD 2, SD 1, CD 1
 H.B. No. 1676, HD 1, SD 2, CD 1
 H.B. No. 358, HD 1, SD 1, CD 1
 H.B. No. 262, HD 2, SD 2, CD 1
 H.B. No. 1415, HD 1, SD 2, CD 1
 H.B. No. 541, HD 1, SD 1, CD 1

Conf. Com. Rep. No. 30 and H.B. No. 643, HD 2, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 643, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, may I get a ruling on a potential conflict? At my law firm, I represent contractors. Thank you," and the Chair ruled, "no conflict."

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

"Thank you, Mr. Speaker. In opposition. I rise in opposition of this measure, Mr. Speaker. This bill grants the Contractors License Board the power to suspend, revoke, or refuse to renew a contractors' license for employing a worker on a public work project who is ineligible under federal law to work in the United States. I support the intent of the bill, Mr. Speaker, and I want to make that clear, that I do support the intent of the bill. I do not want to see ineligible workers taking eligible workers' jobs.

"The problem that I have with this bill deals with the practicality of the measure, Mr. Speaker. The bill specifically allows for the punishment of contractors who knowingly or intentionally hire an illegal worker. But how do we determine if the contractor knowingly or intentionally did that?"

"The measure does not provide a way for employers to check employees who are truly documented. It merely imposes harsh penalties for hiring undocumented workers. Being able to identify whether a worker is legal or not is a difficult process. It is one of the reasons why there are so many illegal immigrants working in the U.S.

"The U.S. Government and Accounting Office, the GAO, pointed to this problem in 2006. In their 2006 report, observed that document fraud, use of the counterfeit documents, and identity fraud, fraudulent use of valid documents, or information belonging to others, have undermined the employment verification process by making it difficult for employers who want to comply with the process to ensure they hire only authorized workers, and easier for unscrupulous employers to knowingly hire unauthorized workers with little fear of sanction. This means that it is increasingly difficult to determine that the employer knowingly or intentionally hired an illegal worker.

"In 2007, Congress attempted to address this problem through the creation of an electronic verification system, but the measure failed, along with the rest of the comprehensive illegal immigration reforms measure. In the absence of that, we are left with the present flawed system that has proven to be difficult to enforce.

"I think before we institute the punishments that are in this bill, we need to address the verification issue to be able to conclusively prove that a contractor knowingly hired an illegal worker. Otherwise, all this bill accomplishes is creating a punishment without the means for its effective enforcement.

"At this point in time, like I said, it's all about jobs at this moment, and we should err on the side of being able to keep jobs in Hawaii, and be able to keep people employed in Hawaii. If there should be a mistake because we have a flawed system of verifying, Mr. Speaker, I'm just afraid that we're doing more harm than good. Thank you."

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

"Mr. Speaker, in support. It's my understanding that the E-verify system did not fail with the immigration reform bill of a year or so ago. In fact, if you look at the website for the Department of Homeland Security, I'm just reading from it. 'E-verify is an internet based system, operated by the Department of Homeland Security, in partnership with the Social Security Administration. E-verify is free and voluntary in the best means available for determining employment eligibility of new hires and the validity of their social security numbers.'

"So, I think any company that uses E-verify, which I just said is free, it's extremely unlikely that the Contractors Board will say, you knowingly or intentionally hired somebody you weren't supposed to. Mahalo."

Representative Finnegan rose to respond, stating:

"Thank you, Mr. Speaker. And I think that's my point, Mr. Speaker. Still in opposition. The point that I was trying to make is, as I try to let you know by reading the specific words, 'of fraudulent use of valid documents or information belonging to others.' You can put in a social security number, and it might be somebody else's. How do you knowingly, when you were given this information, they can't tell if you knowingly or intentionally did it. Because the person might not know who's checking this and putting that particular social security number into this e-verification system.

"Mr. Speaker, that's the cloudiness of it all, and that's why I had the words that I had spoken earlier. It's difficult to do. They're having a problem with it, Mr. Speaker. Thank you, and that's why I'm in opposition."

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

"Mr. Speaker, I rise in support. Very briefly, just to clarify. On June 9th, 2008, President Bush issued Executive Order Number 13465, which

basically required contractors to use E-verify. Contrary to the statements made by the previous speaker, E-verify is a very secure system, and is very easy to use. And so, I think the overall intent is that contractors should at least do some due diligence, in terms of making sure that those people that they hire are legally present. Because if they are not, then they're taking away jobs from people who should be getting it, who should be, because they will pay their taxes, and I think that's the concern that we have, and that's why I support this measure. Thank you."

Representative Ching 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 Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in support however with reservations to H.B. 643 - Relating to Contractors.

"I support the intention of this bill to protect worker rights. However my reservations lie with how to determine if the contractors 'knowingly' hire an illegal worker. This bill does not provide a way for employers to check that the employees are truly documented. It merely imposes harsh penalties for hiring undocumented workers.

"The Contractors Licensing Board testified, 'The Board supports the intent of the bill, which is to prevent employers from hiring ineligible workers; however, we question the need for specific penalties for contractors. There are federal statutes and enforcement agencies already in place to address this issue, and employers must submit employment verification forms indicating that the individual is authorized to work in the U.S. We feel that any employer using ineligible workers should be dealt with by the proper authorities, whether or not the employer is a contractor, and regardless of whether the employee was hired for a public works project.' Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 643, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CONTRACTORS," passed Final Reading by a vote of 48 ayes to 1 no, with Representative Finnegan voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 31 and H.B. No. 31, SD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 31, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT PRACTICES," passed Final Reading by a vote of 43 ayes to 6 noes, with Representatives Ching, Finnegan, Marumoto, Pine, Thielen and Ward voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 32 and H.B. No. 1611, HD 2, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1611, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

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

"Thank you very much, Mr. Speaker. In support. Just very brief comments. At the end of the day, this is a consumer empowerment tool. All it does is notify the consumers when they go to purchase their meats, that this product has been gasified as to appear fresher, and that it may not be as fresh as meat that is freshly cut. I know I'm using the word over and over again.

"And at the end of the day, eating something, Mr. Speaker, is the most intimate thing a human being can do. You're putting it inside your body, and to know that this thing has been gasified, I think is something that we

should know. When you have pistachio nut food scares, salmonella food scares, spinach food scares, I think that giving consumers the tools to be able to make an educated choice for themselves is a very small thing that we in government can do to promote food safety and awareness. Thank you, very much."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1611, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO LABELING OF MEAT AND FISH PRODUCTS," passed Final Reading by a vote of 48 ayes to 1 no, with Representative Finnegan voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 34 and H.B. No. 1316, HD 2, SD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1316, HD 2, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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 of House Bill 1316, House Draft 2, Senate Draft 1, Conference Draft 1.

"This bill helps to address the concerns of Hawaii's design professional companies (professional engineer, architect, surveyor, or landscape architect licensed under Chapter 464) in regards to joint and several liability. In any case involving tort claims relating to the design, construction, and maintenance of highways, where a design professional is determined to be a joint tortfeasor along with one or more other joint tortfeasors, and the degree of negligence of the design professional is ten per cent or less, including the vicarious liability of the design professional for the negligent acts or omissions of the officers and employees of the design professional, the liability of the design professional for more than the design professional's pro rata share of negligence shall not exceed the available policy limits of the design professional's professional liability coverage; provided that one of the following applies:

- (1) The contract amount for design professional services relating to the tort claim is \$500,000 or less and the design professional is covered for the claim by a professional liability insurance policy with limits of no less than \$1,000,000 per occurrence and \$1,000,000 in the aggregate; or
- (2) The contract amount for design professional services relating to the tort claim is \$1,000,000 or less and the design professional is covered for the claim by a professional liability insurance policy with limits of no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

"This section of the law shall not apply to any design professional with a gross annual revenue of \$10,000,000 or more during any of the three calendar years immediately preceding the effective date of the contract for design professional services relating to the tort claim. Information produced pursuant to this section relating to gross revenue shall be confidential and used only for purposes of this section unless otherwise ordered by the court. Thank you."

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

"May I get a ruling on a potential conflict? At my law firm, I represent design professionals. Thank you," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1316, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TORTS," passed Final Reading by a vote of 48 ayes to 1 no, with Representative Rhoads voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 39 and H.B. No. 983, HD 1, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 983, HD 1, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"In strong support of this Majority package measure, and I'd like to insert written comments."

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

"Mr. Speaker, I rise in strong support of HB983 HD1 SD2 CD1, the Majority Package Safe Routes to School Bill.

"We all know rush hour traffic is horrendous. This is in large part because too many of Hawai'i's 180,000 public school students are personally driven to school by their parents, who feel the roads are too dangerous for their *keiki* to walk or bike there, themselves.

"There is a federal program, started four years ago, to mitigate this situation by funding the creation of Safe Routes to School (SRTS). This program was intended to provide funds for programs like the walking school bus and the installation of traffic calming road treatments around Hawai'i's 257 public schools. The funds were also earmarked for community-based planning projects and school-based workshops.

"There has been little action on the part of our responsible state agency to fully implement this program. After five years and \$5 million federal dollars appropriated, 82 percent of those funds are still waiting to be used.

"HB983 HD1 SD2 CD1 requires the Department of Transportation (DOT) to disburse these federal Safe Routes to School program funds ASAP, and to do so in consultation with the DOE, Department of Health, and Hawai'i Association of Independent Schools.

"This version requires each SR2S grant proposal to identify the modes of travel and number of students using each mode, and to survey parents regarding the factors involved in their transportation choices. Where students are driven to school, the first prerequisite is to identify what would need to change for parents to permit their children to bike or walk.

"HB983 also requires the DOT to work with the community organizations that have received or applied for SRT2S grants to streamline the funding process. Helping these community organizations help Hawai'i's kids get on bikes and walk to school is a crucial part of the SR2S vision.

"HB 983 requires the DOT to come back to the Legislature and report on the program's efforts and progress, so we can see improvements in multi-modal, balanced transportation planning and the creation of Safe Routes to School.

"By passing HB983, these federal funds will start working to help reduce vehicular travel and congestion by encouraging walking and bicycling and, most importantly, empowering the community to come together to solve the traffic problem. Thank you."

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

"Thank you, Mr. Speaker. I have reservations on this particular bill, on CCR 39. The Department of Transportation had some concerns. The bill is pretty prescriptive, but it may be also outside of the federal use of these funds.

"So, it's just a reservation, as much as we want to promote safety in our routes to school. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 983, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Final

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

Conf. Com. Rep. No. 41 and H.B. No. 1141, HD 1, SD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1141, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THRILL CRAFT OPERATION," passed Final Reading by a vote of 48 ayes to 1 no, with Representative Thielen voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 42 and H.B. No. 1379, HD 2, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1379, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

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

"Mr. Speaker, I rise in strong support of HB 1379 HD 2 CD 1.

"This bill will ensure that an individual's personal wishes regarding end-of-life care are known and followed allowing the use of a standardized "Physician Orders for Life Sustaining Treatment" form in all healthcare settings.

"HB 1379 seeks to address inadequacies in the current law. That Act authorized the creation of a rapid identification document, replacing the "comfort care only - do not resuscitate bracelet system." However, the implementation of the document system was "hung up" for a number of reasons, which this bill seeks to correct.

"As it stands, if someone is having a medical emergency and 911 is called, paramedics are still mandated to attempt resuscitation -- except if the ill or injured has one of the state-issued "comfort care only; do not attempt resuscitation" bracelets, necklaces or forms. For those who wish to die a natural death, there are many difficulties with this system which we need to fix.

"First, obtaining a "Comfort Care Only" form is made difficult by bureaucratic hurdles. The person first must have a terminal condition, then, they must apply through the State Department of Health, via the State Emergency Medical Services office, with a form filled out by their physician. HB 1379 allows for a form that can be easily obtained which is signed after a discussion with a physician.

"The current system only offers a "yes or no" answer to emergency responders who find a person without a pulse or not breathing. HB 1379 provides clear orders which address medical interventions when there is a pulse and breathing, the use of antibiotics and the use of artificially administered nutrition. It can also provide orders for the full range of aggressive life-sustaining treatment.

"POLST documents allow patients to request trial treatments, with instructions to stop these treatments if improvements do not occur.

"HB 1379 provides for the in-depth discussion on how an individual wishes to be treated in the face of chronic or life threatening disease, from how the person wants their pain to be treated, to the use of hospice or the support of clergy. Like a living will, HB 1379 provides a guideline to assist families and healthcare providers in making these important decisions, but it gives instructions that are clear and actionable and has the force of physician's orders.

"Physician Order's for Life Sustaining Treatment give EMS personnel the ability to make rapid, interpretive decisions during an emergency call. Unlike the current system, these orders can be communicated to the receiving Emergency Room and allow for the ER Physician to quickly initiate the discussion with the family for an immediate treatment plan.

"The current bracelet system has been proven to be ineffective in honoring people's wishes, and it needs to be replaced. The assumption is that advance care directives cover these concerns, or that a living will is sufficient to communicate one's wishes regarding end-of-life treatment, however, those who work in the field of hospice and palliative care will tell you -- in the current system, this is not true.

"The choices provided by HB 1379 are clinically meaningful. By clarifying these choices, we are respecting the patient's autonomy to a much greater extent than current practice permits. Through HB 1379, we will make clear articulation of a person's choice and allow healthcare providers across the medical spectrum -- from EMS to ERs to ICUs to nursing homes -- to quickly and unambiguously honor them, improving the delivery of healthcare in Hawai'i.

"For all these reasons I urge the members support. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1379, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PHYSICIAN ORDERS FOR LIFE SUSTAINING TREATMENT," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

At 11:47 o'clock a.m., the Chair noted that the following bills passed Final Reading:

H.B. No. 643, HD 2, SD 2, CD 1
 H.B. No. 31, SD 1, CD 1
 H.B. No. 1611, HD 2, SD 2, CD 1
 H.B. No. 1316, HD 2, SD 1, CD 1
 H.B. No. 983, HD 1, SD 2, CD 1
 H.B. No. 1141, HD 1, SD 1, CD 1
 H.B. No. 1379, HD 2, SD 2, CD 1

Conf. Com. Rep. No. 44 and H.B. No. 640, HD 1, SD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 640, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL IMPACT STATEMENTS," passed Final Reading by a vote of 48 ayes to 1 no, with Representative Thielen voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 45 and H.B. No. 1470, HD 1, SD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1470, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you very much. Just real briefly on H.B. No. 1470. I am in strong support."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1470, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAII PUBLIC PROCUREMENT CODE," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 47 and H.B. No. 1713, HD 2, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1713, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I have very short comments with reservations for CCR 47. This is the bill that allows the Governor to authorize designated State employees to enter private property at reasonable times to mitigate hazardous situations.

"Mr. Speaker, I'm going to go ahead and support this bill. As we know, those things are important to do. The problem that I have is that it doesn't mention anything about liability. So if this is on a private property and the boulder is coming loose, and you don't have control over it, and it kills someone, is that the private property owner's liability now? Or is it the State? I don't believe that this bill addresses that. As well as, just the liability if the Governor's office maybe, or the State says 'No, we're not going to do it,' and because this gives them the opportunity to go in, and they say, 'No, I'm not going to do it,' does that mean there's a liability issue there for the State.

"As you know, lawsuits can be very expensive, Mr. Speaker. So, those are my reservations. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1713, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HAZARDS," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 49 and H.B. No. 1174, HD 3, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1174, HD 3, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Chang rose in support, stating:

"Mr. Speaker, I rise in support and would like to submit written comments."

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

"Mahalo ka ha'i 'ōlelo. Ke kū nei au me ko'u mana'o i ke kū'ē'e e pili ana no kēia pila hale maka'āinana ho'okahi kaukani ho'okahi hanele a me kanahiku kūmāhā. 'O keia pila 'a'ohe pono ka mana'o a me nā kumu like 'ole e pili ana ka mālama ana no Mauna Kea a me Polī'ahu. E ho'opa'a kēia pila a hiki ke pane no ke 'aha kanawai. E hele akahale kākou ma kēia papa hana nui.

"Na ka pomaika'i a me ka maluhia kā kākou i kā kākou hana mua no kā kākou holo mua.

"Ua mau ke ea o ka 'āina i ka pono.

"Mahalo."

[Translation provided by Representative Hanohano:

Thank you, Mr. Speaker. I rise in opposition to House Bill 1174. This bill is not efficient to take care of Mauna Kea and Polī'ahu. This bill needs to be held until the court case is settled. There is no need to rush this bill.

May the blessing and peace be with all of us as we work towards a better future.

The life of the land is preserved in righteousness.

Thank you.]

Representative Chang rose to respond, stating:

"Could I instead say a few words in rebuttal? Mr. Speaker, I think we all can agree that in the past, serious mistakes were made, and in the absence of best practices, damage was done and Mauna Kea was not given the respect it deserves. While much has been said about this bill, we must

wade through the rhetoric and the years of mistrust, and see this bill for what it really is; a chance for the University of Hawaii, and for all of us, to do the right thing for Mauna Kea.

"Much groundwork was done prior to the introduction of this bill. We've seen the establishment of the Office of Mauna Kea Management. The creation of the 2000 Master Plan, which created the Kahu Ku Mauna Council, who incidentally supports this bill, who's made up of Native Hawaiians serving the University as volunteers, and charged with the specific responsibility of advising the Chancellor of UH Hilo on the importance of Hawaiian culture as it relates to Mauna Kea. Also, the establishment of the Mauna Kea Ranger Corp to protect the mountain from inappropriate behavior. And most recently, the completion and final acceptance by the State Land Board of the Mauna Kea Comprehensive Master Plan.

"These are all important pieces that need one thing to bring them all together. The ability to promulgate and enforce culturally sensitive and appropriate rules to manage the Mauna Kea lands. And this, Mr. Speaker, is what this bill does. There are statements that this bill directly contradicts the Land Board's ruling that would allow the University to restrict public access, would limit cultural practices and establish a private police force. I can assure you that these statements are absolutely not true. What is true is that the Chair of the Land Board has testified in support of granting UH rulemaking authority. Both the University and DLNR has acknowledged that the Land Board has the final authority to approve all land uses within its conservation lands, and all uses will be subject to final review and approval by the Land Board.

"This bill will also not allow the University to restrict public access or limit cultural practices. This bill will establish a private police force. Currently, the Ranger Corp, under the jurisdiction of the Office of Mauna Kea Management, can only witness the desecration and damage being inflicted upon the mountain. By granting rulemaking and enforcement authority and allowing the University to assess and collect administrative fines, we can truly protect and preserve this culturally and ecologically important area.

"To encourage transparency and community input, this bill requires that the Board of Regents hold at least one public hearing, in addition to the public hearing at which decision-making is made, to be held on the Big Island of Hawaii. Also to provide legislative oversight, the Board of Regents shall report annually to the Legislature the activities, current and pending lease agreements and fees, the status of current and pending administrative rules, income and expenditures of the Mauna Kea Lands Special Fund and any other issue that may impact the activities of the Mauna Kea lands.

"This, Mr. Speaker, is a complete and comprehensive bill that deserves our unanimous vote to truly protect and preserve this important area."

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

"Thank you, Mr. Speaker, in support of the measure. I am in support of the measure, but I just wanted to know and verify that that was indeed the points made by the Representative from the Big Island. I am asking perhaps if the Representative of Aina Haina would translate for the Representative of the Big Island, just for clarity? 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 Puna be entered into the Journal as my own. Thank you. Just a few comments. I appreciate the Chair of Higher Education's work in making this a little bit better than it was when it left and came back to us. For me, again, because of the court case pending, I think that we need to be cautious, and most importantly, there is a line in here that continues to be repeated in any version of this bill, 'that access for traditional and customary Native Hawaiian cultural and religious purposes shall be accommodated.'

"'Accommodated' is a very transient and a very superficial kind of word, Mr. Speaker, and I hope that we can, as we watch this as well, will look at

accommodation as actually moving toward emanating that the cultural and religious purposes of Mauna Kea will be the foundation upon which decisions are made. So, thank you very much."

Representative Ching rose, stating:

"I just wanted to thank the Representative, and for the sake of debate, I like to know what's being said. Thank you."

Representative B. Oshiro rose to disclose a potential conflict of interest, stating:

"I'd like to ask for a ruling on a potential conflict. At my law firm, I represent the plaintiffs that have sued the Board of Land and Natural Resources. Thank you," and the Chair ruled, "no conflict."

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

"Thank you, Mr. Speaker, in support. This bill helps the University to improve its obligations relating to activities in the uses of Mauna Kea that UH leases and over which UH has jurisdiction. It clearly defines the law regarding the University's authority to manage the lands, and it also requires annual reports to the Legislature.

"There should not be any ambiguity, and as the Legislative Auditor found in its audits, the University is the best entity to develop rules and also to enforce them. Mauna Kea is a unique place not only in our State, but also the world both geographically and culturally. We must advocate for assurances that its integrity will not be compromised. Thank you very much."

Representative Hanohano rose to respond, stating:

"Mahalo. This time I'll say it in English so everybody knows, but it's not really the same thing I said earlier.

"I stand to speak in opposition to House Bill 1174, which seeks to give the University of Hawaii authority over Mauna Kea. Many revere Mauna Kea as a temple, a sacred summit. It is also public land. Land protected by State law, as a conservation district for the benefit of all of Hawaii's people. Unfortunately, the University's use of the summit for astronomy research continues to compromise the public's enjoyment of this magnificent region. Its unique ecosystem destroyed. Its sanctity desecrated. Its open accessibility undermined. Yet, instead of improving oversight and accountability for activities at the summit, this bill seeks to tighten the University's control over the public's land, based on the claim of educational autonomy.

"While it is true the bill requires the University to consult with the Office of Hawaiian Affairs, and be consistent with existing regulations, the Legislature did not grant the University autonomy so it could dictate the use and exploitation of public land, especially where the University's interest in using the land directly contradicts the public's interest in protecting it.

"Mauna Kea is protected by law as a conservation district, a place where construction is assumed to be prohibited. The University however, uses a portion of the summit for the sole purpose of constructing telescopes. In fact, plans for new, giant 30 meter telescopes are already underway.

"This Legislature should not undermine the public's interest by giving the developer more control over the management of the public's conservation lands. Unfortunately, that is precisely what House Bill 1174 would do. House Bill 1174, House Draft 3, Senate Draft 2, Conference Draft 1, would establish a special fund and authorize the University to draft new rules to regulate public and commercial access draft lease agreements, collect fees, and issue fines. Granting such authority means the University will be subject to less public oversight and accountability when the University's appalling history on the summit warrants more public oversight, not less.

"Instead of approving House Bill 1174, I urge my fellow Representatives to proceed with caution before making drastic changes to

the management of Mauna Kea. The Hawaii Intermediate Court of Appeals still must decide the final outcome of Mauna Kea Ainahou vs. the Board of Land and Natural Resources, the lawsuit brought by the members of the public to uphold the conservation laws that govern the summit. In addition, the Board of Land and Natural Resources gave the University a year to complete its proposal for future use of the summit. Until these decision-making processes are complete, it is not clear what changes, if any, will be needed to improve the management of Mauna Kea.

"The Legislature's decisions affecting the management structure of the summit should remain based on the outcome of these decisions, not in spite of them. Therefore, I strongly urge all of my fellow Representatives to vote against House Bill 1174 at this time. Mahalo."

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

Representative Sagum's written remarks are as follows:

"Mr. Speaker, I stand in support of CCR49 – HB1174 HD3 SD2 CD1: Relating to the University of Hawaii.

"The University of Hawaii leased the Mauna Kea Science Reserve area for 65 years in 1968 to be used as a scientific complex.

"The purpose of this bill is to enable the University to better manage the activities and uses that take place on the Mauna Kea lands that it leases by establishing the Mauna Kea Lands Management Special Fund and adopting rules to regulate public and commercial activities.

"I realize the issue regarding ceded lands is causing some to oppose the intent of the bill, but I believe that since the University of Hawaii is responsible and sensitive to the cultural significance of the Mauna Kea Science Reserve area, they should have the authority to protect the resources they lease.

"Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. With all due respect to the Chair of Higher Education, I am in opposition to this bill for several reasons. I'd like to ask that the words of the Representative from Puna be inserted as my own in the Journal and just give a few words now.

"Poliahu: Ka wahine kapuhao anu o Mauna Kea. Poliahu: The woman who wears the snow mantel of Mauna Kea. Poliahu is the goddess of snows. Her home is on Mauna Kea. I oppose this bill for several reasons also, because one, it did not come to the Hawaiian Affairs Committee, and this is a ceded lands issue. It's a very sensitive place where our religious rights have been violated. When I took my Committee, on another measure, to Keaukaha, many spoke about this bill, even though it wasn't in my Committee.

"Another reason is that this is a place where many of our practitioners, as the Representative from Kuliouou mentioned, that as the host culture, you don't accommodate us. This is part of our rights. Our Native Hawaiian rights. And by just accommodating us, it makes us feel as we are second to our own land. So, with that, I ask that my colleagues please oppose this measure, and also take the advice of our gracious Representative from Puna. Thank you."

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

"Thank you, Mr. Speaker. I stand in opposition, and I would like to have the words from the Representative from Puna adopted as my own, both in English and *'olelo Hawaii.*"

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

"Thank you. Mr. Speaker, in support. And my apologies to my neighboring Representative from Puna. Mr. Speaker, I spent many days on this magnificent mountain. And it is a very, very special place. I have struggled for years with the telescopes on that mountain. And the only way that I've been able to resolve it in my own mind is that the Polynesians were among the world's greatest explorers, and what those telescopes are allowing for is this magnificent mountain to be looking into our history. Looking into space.

"For the casual hunter, and others that go on the mountain, if they don't know, for example where the adze factory is, they could inadvertently pick up a rock, or pick up a stone that is something maybe an adze that was broken. All of those very special places need to be identified and have some way to preserve them, or else they will be lost. Thank you, Mr. Speaker."

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

"Mr. Speaker, I will stand in support. I believe that this measure here before us today is an important first step in moving forward and addressing many of the concerns that have been expressed on the Floor today. I would like to submit further written comments if I may be allowed," and the Chair "so ordered."

Representative Nakashima's written remarks are as follows:

"Mr. Speaker, this is important legislation which would address many of the concerns expressed by the opponents of this bill. HB1174 authorizes the University of Hawaii Board of Regents to adopt rules to protect the Mauna Kea lands and to establish a viable authority and presence on Mauna Kea that is necessary to regulate public and commercial activities on the mountain.

"This measure also establishes the Mauna Kea Lands Management Special Fund for the University of Hawaii under direction of the Office of Mauna Kea Management that will return authority and control of the University's stewardship from Oahu to the Big Island. The University has acknowledged the shortcomings of its stewardship of the Mauna Kea lands, and I believe that this measure is the first step in addressing the concerns expressed by the community."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1174, HD 3, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Final Reading by a vote of 39 ayes to 10 noes, with Representatives Belatti, Berg, Carroll, Hanohano, C. Lee, Luke, Morita, Saiki, Shimabukuro and Wooley voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 55 and S.B. No. 281, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 281, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"I have a potential conflict and I request a ruling. I own, and I campaign on a Segway," and the Chair ruled, "no conflict."

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

Representative Ward's written remarks are as follows:

"This bill allows counties to prohibit or regulate electric personal assistive mobility devices on sidewalks. Segways do not need to be regulated. Segways have been operating fine for many years without the need of regulation.

"This bill would allow the regulation of Segways, but also persons operating push carts, skates, sleds and toy vehicles.

"As an owner of a Segway we must be cautious with the implementation of this bill. People, including the Honolulu Police Dept. have been operating these devices for years with no major impact. Requiring additional manpower to regulate these devices would only take police manpower away from enforcing more serious crimes

"The law should allow for usage of motorized vehicles for handicapped persons on sidewalks, and in my own experience it is too dangerous to ride a Segway on the roadway with cars. A Segway is slow and needs to have balance at all times and forcing them off the sidewalks is unwise. While on the sidewalks however, I suggest that the regulation be that Segways yield right of way to pedestrians and all other users of the sidewalk, Wakiki has very busy sidewalks, and the use of Segways and motorized scooters can be very dangerous for pedestrians (WIA)."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 281, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATEWIDE TRAFFIC CODE," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 56 and S.B. No. 711, SD 1, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 711, SD 1, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I just wanted to express my reservations on this measure. I see here that this is to provide greater efficiency on the movement of passengers through public transit systems, by allowing larger articulated buses to operate on public roadways. I think that's a good thing, that's a good intent.

"However, just a report from my district. This trend towards larger and larger vehicles is really a hardship on some of our districts, and particularly in my district. Some of the vehicles that have gotten so big have thereby created where parking in residential areas has to be condemned. So, a number of my residents reported to me this year that they were not even able to hold Thanksgiving dinner because there's no parking on the street, just to accommodate larger vehicles. So, with that, I hope that it will stay to this type of a vehicle, and not create a trend. Thank you."

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

"Thank you, Mr. Speaker. I rise in support. The purpose of this measure is to allow the use of articulated buses for public transit purposes. These buses will be greater in length than our traditional buses, up to 82 feet in length. Honolulu will soon have a mass transit system, and the larger articulated buses will be the perfect compliment, adding value to Honolulu's transit program to become the most efficient in our country.

"The larger articulated buses provide for the opportunity to move up to 150 people at a time, and therefore would help to reduce traffic. The proposed buses meet all federal requirements and actually have a smaller turning radius than articulated buses currently in use.

"For the forgoing reasons, I respectfully ask Members to support the passage of Senate Bill 711, as we seek to modernize Hawaii's public transit system for the 21st century. And just as a closing remark, I appreciate the comments from the Representative from Liliha, and hopefully with the passage of this measure, you'll have less people parking on the side of the roads, and more people in their buses. Thank you."

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

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

"Thank you, Mr. Speaker. I rise in support of this measure. I'd like the words of the speaker from Nanakuli to be placed in the Journal as if they were my own. I just wanted to add a few more comments, Mr. Speaker. Thank you, very much.

"When we compare the articulated bus to a standard sized bus, it provides a lot more passenger space. In fact, a standard bus has the capacity of 57 passengers, and the new articulated bus has the ability to accommodate 150 passengers. Currently, the articulated buses in question are operational worldwide. These buses meet all federal requirements. In fact, the articulated buses have lower emissions per seat, and the best miles per gallon per seat of any transit bus.

"Further, these buses are not only environmentally friendly, but they are energy efficient. These buses will most definitely reduce traffic, and will help to improve the quality of service, primarily in the urban areas, where we have high ridership, and therefore provide more seating capacity than our traditional buses. The articulated buses will upgrade our aging bus fleet with better, more modern and environmentally friendly buses to ensure that our riders get the ride they deserve.

"Mr. Speaker, I respectfully request Members to support the passage of Senate Bill 711. Thank you."

Representative Ching rose to respond, stating:

"Thank you, Mr. Speaker. Still in support, with just reservations. I do not contradict, or am opposed to the energy efficiency. I think I stated that earlier. Energy efficiency is an important goal, but it is not incongruent with another goal, which is urban design. And urban design, we know that the wider our streets are, the longer it takes for our elders to traverse that, and we increase the fatalities on the road.

"So, I'm just saying that I'm all for the energy efficiency. I'm glad that we have additional passengers. I think that we have to just be mindful of the fact that we don't want this in certain areas. Thank you."

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

"In opposition, Mr. Speaker. The articulated buses cost \$1.2 million. The current hybrid buses the City and County has now cost \$600 million. The current bus schedule right now is that they usually come every half an hour. I would rather have buses that come more often than those more expensive buses.

"Considering the economic conditions of the City and County, Mr. Speaker, I think that we're better off with what we have right now. It's good to have newer buses, but whose back is it coming from, the cost of it? If we buy these more expensive buses, we're just going to hike the fares. So, we all would suffer with that improvement. Thank you."

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

"Thank you. Just in explanation, since I will be voting 'no.' The City and County testified in opposition to this, citing the fact of the greater wear and tear on the street surface. The fact is that in the Downtown area, the longer buses take a greater bus stop area, and in some cases, they don't have the extra space. That was the reason for my 'no' vote."

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

"Yes, Mr. Speaker and Members. I wish to articulate in favor of this measure. Mr. Speaker and Members, for those of you fearful that you may find these buses running all through the little streets in Honolulu, it merely provides an option. It's up to the City and County of Honolulu if they wish to use the articulated buses. It's just an option at this point. 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. 711, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Final Reading by a vote of 47 ayes to 2 noes, with Representatives Cabanilla and Marumoto voting no, and with Representatives Bertram and Takai being excused.

At 12:15 o'clock p.m., the Chair noted that the following bills passed Final Reading:

H.B. No. 640, HD 1, SD 2, CD 1
 H.B. No. 1470, HD 1, SD 1, CD 1
 H.B. No. 1713, HD 2, SD 2, CD 1
 H.B. No. 1174, HD 3, SD 2, CD 1
 S.B. No. 281, HD 1, CD 1
 S.B. No. 711, SD 1, HD 2, CD 1

LATE INTRODUCTIONS

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

Representative Awana introduced supporters of the Aloha 'Aina Earth Day Recycling program:

Coordinator, Ms. Rene Mansho, Schnitzer Steel Hawaii;
 Ms. Tracy Mukia, Access Information Management;
 Ms. Denise Tanaka, Goodwill Industries of Hawaii, Inc.;
 Mr. Andre, Mr. Anthony, and Ms. Pleiades Dolor, Hagadone Printing Co.;
 Mr. Joe Francher, Hawaii Lions District 50;
 Mr. Dale Rosin, Hawaiian Earth Products;
 Mr. Craig Matsuo, Honolulu Recovery Systems;
 Mr. Mike Owens, Intrade Corporation;
 Mr. Darryl Otaguro, Menehune Water Co.;
 Mr. Brian Perry, Penske Truck Rental;
 Mr. Nik Nikolaidis, T&N Computer Recycling Services;
 Ms. Kini Santana, Walmart; and
 Mr. Mike Tanaka and Ms. Yolanda Tanaka, Alliance Trucking.

Representative Wakai also acknowledged and thanked Ms. Rene Mansho and the supporters of the Aloha 'Aina Earth Day program for their contribution to the community.

Representative Marumoto, on behalf of Kalani High School and the community, thanked the supporters of the Aloha 'Aina Earth Day program.

Representative McKelvey introduced his friend, Ms. Connie Smales.

ORDINARY CALENDAR

UNFINISHED BUSINESS

Conf. Com. Rep. No. 58 and S.B. No. 971, SD 2, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 971, SD 2, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise in support of this measure. Mr. Speaker, there's a saying: 'Give credit where credit is due,' and I would like to thank the Chair of Finance for how excellent this bill has come out. It has extricated the pension area. Having said that, Mr. Speaker, it's a good bill, but it was one of those heading in the wrong direction. But he, using his wisdom, better judgment, and for the sake of our seniors now and forever, that will never return, hopefully. 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. 971, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 59 and S.B. No. 714, SD 1, HD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 714, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HIGH OCCUPANCY VEHICLE LANES," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 60 and S.B. No. 564, SD 2, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 564, SD 2, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I rise to speak in opposition of SB 564, S.D. 2, H.D. 1, C.D. 1 Relating to Fire Protection.

"Everyone rightly shares the goal of safety and that is the mission of our hardworking firefighters throughout the islands. However, I believe that reducing current safety standards to simply reflect budget or personnel limitations is not good policy. As I understand the testimony from the Fire Council, reducing the frequency of inspections from two years to five years is based largely on the strain on staff. I suspect that if building safety inspections were a priority, however, the frequency would not be such a crucial problem. My understanding is that Maui firefighters have qualms about simply increasing the period of inspections and for that reason I will support the firefighters of my county in protesting this change.

"Please record my no vote for 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. 564, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO FIRE PROTECTION," passed Final Reading by a vote of 48 ayes to 1 no, with Representative Keith-Agaran voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 63 and S.B. No. 470, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 470, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Yes, in opposition, Mr. Speaker. The purpose of this bill is to make various administrative and technical amendments to the liquor license and liquor tax laws. Included in these amendments is an objectionable provision that allows the issuance or renewal of a liquor license if the applicant has entered into an installment plan agreement with DoTax for not paying their taxes.

"I believe that at a time when the State desperately needs revenue, this measure will harm its tax collection, as passage of this measure means that there will no longer be a guaranteed flow of tax revenue because a licensee can extend his or her tax obligations, while still obtaining a temporary license if they enter into a payment plan.

"Our State is in a fiscal crisis and we should not harm any effort to collect revenue, no matter how small the revenue may be. I think that what concerns me the most about this piece of legislation is there are many companies in the State of Hawaii that are also suffering in this economy, and are having a difficult time paying their taxes to the State of Hawaii, but we don't seem to be making the same type of exceptions in statute for many of those other companies. But we are making an exception, specifically to those people who serve liquor to the people of Hawaii. And as I said throughout the Legislative Session, I just believe that this sends a bad message to the people of Hawaii."

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

"Thank you. I also would like to express my strong reservations on this, because I believe that of all the businesses we have, the contracting industry, or another industry that requires tax collection prior to license renewal, and they're hurting from the faltering economy. So, to me, I still take some umbrage of the fact that we are helping, of all the industries, we help this one first when we do have some major problems with alcohol-related accidents in the State of Hawaii.

"I see here that there's, in addition to allowing no more than 10% of the yearly Liquor Commission fines to be used for funding public liquor-related educational enforcement programs, and I think that's a good thing. And so, I changed my 'no' vote to an aye with reservations. Thank you."

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

"Mr. Speaker, I rise in support. In the written testimony submitted by Kurt Kawafuchi, Director of Taxation to the Finance Committee on April 2nd, 2009, he states in pertinent part that the Department is concerned with this measure that would no longer ensure a guaranteed flow of tax revenues, as a licensee can extend their tax obligations over time, and still obtain a temporary license if they enter into a payment plan.

"The reason for this measure is that under the current laws of the City and County of Honolulu, you need to have a clearance before your liquor license permit will be extended or awarded. Director Kawafuchi goes on to also state that, 'However, simultaneously, the Department understands that it allows for a tax clearance to be issued in order for businesses to stay open, sell more liquor, generate more money, which would be used ultimately, to pay their taxes owed.' Thank you."

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

"Thank you, Mr. Speaker. On this bill, I am in opposition and I just have short comments. Mr. Speaker, on this particular issue, I would normally be for something like this, but the only thing that I don't like that's missing in this bill is there is no sunset date that I know of in reviewing this bill. And the incentive to be able to catch up with your taxes should have some kind of, especially because this is hopefully a very temporary situation we are in with our economy, that there needs to be an incentive to get back on track, pay your taxes and get your tax clearance. Without having something like this, I think that it will just keep on moving forward, and we should have some incentives, like a repeal date on this. Thank you, Mr. Speaker."

Representative Pine rose to respond, stating:

"I just wanted to give some examples of what I was talking about earlier. In opposition again, and in rebuttal. I don't see equality in this bill. For example, the contracting business is another industry that requires a tax clearance prior to getting a license renewal, and I'm sure everyone knows that a lot of the general contractors out there are suffering because of this bad economy. So why aren't we also putting in statute that they would be allowed to have the same agreement where they can still be paying their taxes and still be making lots of money, and in turn giving more money to our State revenues. I just don't believe that government should pick and choose which industry has the ability to enter in these

installment plans. If one business can benefit from this arrangement, then it should mean that all licensees should have the same ability."

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

"Thank you, Mr. Speaker. In strong support and in rebuttal to the various prior comments. The reason for this and not, say contractors, is because liquor licenses are handled by the counties. And the reason why we have to do this is because the counties do not accept conditional tax clearances. So, now we have to amend our statute, because the counties won't allow it. So, if the prior Representative wants to have the sunset clause, we should have the sunset with the counties. And I'm all for that. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 470, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO LIQUOR," passed Final Reading by a vote of 43 ayes to 6 noes, with Representatives Choy, Finnegan, C. Lee, Nakashima, Pine and Wooley voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 65 and S.B. No. 35, SD 1, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 35, SD 1, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"I request a ruling on a potential conflict. I'm a certified public accountant," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 35, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGES," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 66 and S.B. No. 34, SD 1, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 34, SD 1, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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:

"I rise to speak with reservations concerning SB 34, which excludes real estate brokers and salespersons from the definition of distressed property consultants. The bill also prohibits certain conduct relating to the acquisition of an ownership interest in distressed property by licensed real estate brokers and salespersons.

"The bill seeks to amend Act 137—the Mortgage Foreclosure Rescue Fraud Prevention Act—which became law less than a year ago. It was designed to protect consumers from foreclosure rescue scams and fraudulent distressed property consultants who offer so-called "help" to homeowners who are in arrears or foreclosure.

"This "help" usually comes from individuals who take a fee for negotiating with a distressed homeowner's mortgage company. Frequently, this results in the homeowner getting little or nothing for their fee and the consultant disappearing with the money. An even more insidious form of the scheme involves the consultant taking title to the property and the homeowner staying on as a renter in an attempt to buy it back over the next few years.

"While I appreciate the challenges Act 137 presents for real estate brokers and salespersons, I do not believe a wholesale exemption of the

industry is the best solution. If current law is causing problems for the real estate industry, this bill—even with its most recent amendment prohibiting licensees from acquiring ownership of distressed property within a year after a listing agreement has expired—is not the best way to solve them. I express my reservations in the hope that a better bill might emerge from further discussion next year."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 34, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE MORTGAGE RESCUE FRAUD PREVENTION ACT," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 71 and S.B. No. 605, SD 1, HD 3, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 605, SD 1, HD 3, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Yes, I'm rising in support, but with some reservations, and a couple comments. I think this is a great bill that relates to noise and decibel weighing. I think the biggest frustration we've had in my community is, while we have set in statute a typical noise level that's allowed by law, what my residents have been seeing is, we call the police and they can't enforce it, because unfortunately the police don't have these noise measuring monitors.

"And so it seems like we're passing a good-feeling bill, but I can tell you it's really not going to help the people of my community who are very concerned with the noise. It's very problematic, especially since the Department of Health only has two of these noise monitors for the whole entire State. So, while I think this is a great bill, it's going to make us feel good. It would've been much better if we would also allocate money where we can also enforce the law."

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

"Thank you very much, Mr. Speaker. In support, and after having to live in Waikiki and experience this, I can definitely see the value in this. And just on a final note: *boom, boom, boom, boom, boom.*"

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

"Mr. Speaker, in support. With the regard to the question of whether it will actually be enforced. The Liquor Commission already has decibel meters to do the enforcement. So, I think this will be more than just a gesture. Thank you."

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

Representative Belatti's written remarks are as follows:

"I rise in strong support of Senate Bill 605, Conference Draft 1. For urban areas, this bill is responsive to the many complaints lodged by residents who are confronted with deep, low-frequency noises on a nightly basis. Although critics of the dBC weighting system raise concerns with implementation, expense, and inadvertent consequences, this bill has been specifically tailored to: (1) enable the Department of Health to have both the dBC and dBA systems in place; (2) impose reasonable maximum sound levels in accordance with the dBC weighting system at narrowly tailored times and in the urban land use district; and (3) empower the counties through their liquor commissions to effectively develop recommendations and implement the maximum sound levels set forth in this bill. As an important step in addressing noise concerns in the urban core, I stand in support of this Senate Bill 605, Conference Draft 1."

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

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support to S.B. 605 – Relating to Noise.

"This bill requires the Department of Health to add the dBC decibel weighting system to the current dBA decibel weighting system for purposes of community noise control and sets permissible maximum sound levels for nighttime in any urban land use district and grants the DOH and the county liquor commission the authority to enforce these limits. I believe strongly that noise is an overlooked issue in the State, and this is why I support this bill.

"The City & County of Honolulu stated, "This bill is a major positive addition to noise regulation which currently does not adequately address the problem of deep, low frequency sounds from powerful speakers. These low frequency sounds do not register on the dBA decibel scale, but can be most disturbing, even to the point of vibrating the steel reinforcement bars within poured concrete buildings."

"The Department of Health's *Noise Reference Manual, Oahu Edition*, pages 4-5, from the section titled, Noise As A Public Health Issue: "The quality of the environment has continued to be a major concern of the general population. Along with air and water contaminants, noise has been recognized as a serious pollutant. As environmental noise levels have increased, the effects of noise have been more pervasive and more apparent... Noise annoys, awakens, angers, and frustrates people. It disrupts communication and individual thoughts, and affects performance capabilities... The numerous effects of noise combine to detract from the quality of people's lives and the environment ..."

"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. 605, SD 1, HD 3, CD 1, entitled: "A BILL FOR AN ACT RELATING TO NOISE," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

At 12:31 o'clock p.m., the Chair noted that the following bills passed Final Reading:

S.B. No. 971, SD 2, HD 1, CD 1
 S.B. No. 714, SD 1, HD 2, CD 1
 S.B. No. 564, SD 2, HD 1, CD 1
 S.B. No. 470, HD 1, CD 1
 S.B. No. 35, SD 1, HD 1, CD 1
 S.B. No. 34, SD 1, HD 1, CD 1
 S.B. No. 605, SD 1, HD 3, CD 1

Conf. Com. Rep. No. 73 and S.B. No. 55, SD 1, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 55, SD 1, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, I need a ruling on a potential conflict. I own a public accounting firm. Thank you," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 55, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ACCOUNTANCY," passed Final Reading by a vote of 45 ayes, with Representatives Bertram, Chang, McKelvey, Rhoads, Takai and Takumi being excused.

Conf. Com. Rep. No. 74 and S.B. No. 50, SD 1, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 50, SD 1, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I was going to speak with serious reservations, but in thinking this over, I am going to cast a 'no' vote on this measure. Mr. Speaker, I'd like to explain my 'no' vote. This is Senate Bill No. 50, Relating to Renewable Energy Producers.

"What it does is, in my reading of the bill, it really allows ranchers to trump renewable energy, and that concerns me, because I think the two can coexist. Hawaii has to look at mixed uses on properties. There has been an example on Kauai where this has actually worked very well with ranchers on State lands and a renewable energy producer. And, the producer actually paid for improvements to the ranch lands, and multiple ranchers subleased areas for the renewable energy producer.

"When you take a look at the total land in Hawaii, you'll see why this is of concern. We have 4 million acres, and if you subtract 2 million acres for watersheds, steep slopes, etc., and you subtract 500,000 acres for urban areas or ag. subdivisions, we end up with 1.5 million acres. Of that land, 1 million acres is controlled by ranchers. The total revenue for the ranching industry, according to the Cattleman's Strategic Plan, is \$60 million annually, versus the total send out of Hawaii for energy costs is \$2 billion annually. So, we have \$60 million annually, and most of those cattle, by the way, are shipped to the Mainland for consumption, so it's not a Hawaii food security industry. But we're sending \$2 billion out of State annually for energy costs.

"So, we have to take a look at using land that may be in cattle use at this point, and do coexisting kinds of projects. A \$60 million a year industry can't have exclusive control over more than half of the developable land in this State. We have to have mixed use if we're going to have renewable energy and keep some of that \$2 billion a year in the State.

"So, I think this bill trumps the renewable energy projects and at least it puts them at risk, and I have to come down on the side of mixed use, cattle and renewable energy. Not just cattle first. Thank you."

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

"I rise in support. Mr. Speaker, this bill came about because the Department of Land and Natural Resources, after a family on the Big Island with many generation cattle farmers, all of a sudden without any notice, without talking to the family, withdrew it and put it up for lease, and was working on a renewable energy lease. That is not respectful. It doesn't honor the generational use. It doesn't take into account, yes, we're in a transitional period. And yes, we want to move to renewables. But there is a proper way to do this. There is a respectful way to do it. I think this bill really tries to address the transition from where we are today, to the future, but also respects families and generations and uses that we currently have.

"It's a very balanced bill, and I respectfully ask my colleagues to support it. Thank you."

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

"Thank you, Mr. Speaker. I rise in opposition to SB 50. Thank you. We're talking about process. I wanted to just comment in that regard. This measure sets stringent requirements for leases of public lands to renewable energy producers. It requires these companies to present conceptual designs by natural plans and other project descriptions at two public hearings, where outlines will be distributed and commented on by interested parties, including competing renewable energy producers.

"Unfortunately, very few companies will be willing to invest the capital needed to produce these kinds of descriptions, when they know their

detractors and competitors will have the opportunities to snipe them on the last leg of their leasing process.

"This Legislature wants to raise the Barrel Tax to promote energy sustainability, allow clotheslines to conserve energy, and refocus DBEDT on the Hawaii clean energy initiative.

"We've put on a very eco-friendly front, yet here we are again, imposing unnecessary hurdles to the development of renewable energy and standing in the way of its progress. And that's why I'm in opposition. 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. 50, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY PRODUCERS," passed Final Reading by a vote of 43 ayes to 2 noes, with Representatives Finnegan and Thielen voting no, and with Representatives Bertram, Chang, McKelvey, Rhoads, Takai and Takumi being excused.

Conf. Com. Rep. No. 79 and S.B. No. 1338, SD 2, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1338, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise in support, with some reservations. Mr. Speaker, my district in Hawaii Kai has a number of high rise condos. They were very concerned about this bill. They were fearing that the spalling effect would not only harm the aesthetics, but also the deterioration of these high rise buildings. The Governor vetoed that bill. It's now back and it's going through a couple of reiterations. The language is better than it was before, but given the misinterpretation of that, I was assured, and I thank again the Chair of Finance, that in the Committee Report it says that it does not pertain to high rise condominiums.

"So, Mr. Speaker, on the basis of that trust, I will assume that this bill does not and will not be applicable to high rise condominiums. Now, having made that observation, Mr. Speaker, I will bring to mind the bill that this Body, particularly the Majority had an opportunity to literally ban all fossil fuel burning electrical plants."

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

"Mr. Speaker, a point of order. He is not talking about the current bill."

The Chair addressed Representative Ward, stating:

"Representative Ward, please keep your comments to the bill that we have at hand."

Representative Ward continued, stating:

"It's simple. Instead of a really giant footprint, we've got this *manini* clothesline bill where we could ban for the first time in the history of this country, the burning of coal, fossil fuel."

Representative B. Oshiro: "A point of order, Mr. Speaker. He's continuing. Will you call him out of order? Thank you."

Vice Speaker Magaoay: "Representative Ward, you stood up with strong reservations, so please confine your remarks."

Representative Ward: "Mr. Speaker, this is leading to household energy demand. Is that not energy demand? Hawaiian Electric is burning fossil fuel right now. I think I'm rather relevant. But the point has been made, we've got a *manini* step, a loosey-goosey bill, but we've blown the big 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. 1338, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSEHOLD

ENERGY DEMAND," passed Final Reading by a vote of 45 ayes, with Representatives Bertram, Chang, McKelvey, Rhoads, Takai and Takumi being excused.

Conf. Com. Rep. No. 80 and S.B. No. 19, SD 1, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 19, SD 1, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I rise in opposition to this measure. Thank you, Mr. Speaker. This bill will decrease the bid amount of a bidder by 5% on a public works contract with a value of not less than \$250,000 if the bidder is a party to an apprenticeship agreement registered with DLIR. I object to this bill, because it grants preferential treatment to one group of construction contractors over another. There are currently over 18 State-certified apprentice programs. All but one of these programs are based on trade groups that have collectively bargained contracts. The result of this is an uneven bidding situation for contractors who are affiliated with unions and those who are not.

"Certified apprentice programs require the employer to be fully staffed with workers to be able to provide the necessary supervision and training. Many of our small construction firms are not big enough, or do not have resources that are needed to maintain apprenticeship program. They should not be punished for not being able to afford this.

"Mr. Speaker, we talk about small business, and this would fall into the small business category, where you start to push out these smaller contractors from being able to competitively bid. Apprenticeship programs are useful training programs, but they are not essential to ensuring the qualification of contractors to perform work and State work. And they are certainly not vital enough to have the State give preferential treatment for one group of contractors over another. I also think that we need to acknowledge that workforce training has changed over the years. The rapid changes in technology have meant that more training takes place in our high school classrooms to keep pace with new development. We're talking about how construction at times, in past debates on the construction industry, of how our kids aren't ready to even do simple math when they get into doing construction work.

"And some of these different small contractors may make contributions in different ways. They may help with a school. They may sponsor a program or do other things like that with STEM. So, I think they may decide that we're going to be contributing to the construction industry in a different way.

"So, Mr. Speaker, I just think that what we're doing in this particular legislation, it doesn't necessarily encourage and help with fairness in bidding for these jobs. Thank you."

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

"Mr. Speaker, I rise in support. Very briefly, I'd just like to counter some of those comments. Primarily, in 2005 with Act 50, we passed what is now known as HRS 103D-906, Preference for small businesses; set asides use as subcontractors. And what that law did was it actually required the use of set asides, so that specific contracts by the government would actually be set aside for small businesses, which is a permissible set aside allowance that is commonly used under the federal government.

"Unfortunately, to date there still has not been a single contract issued under this law that's now nearing four years old. So the question becomes, how do we actually get this done, if we pass a law, we pass a policy, and nothing gets done? At that point, what we need to do is look at other alternatives to try to create and promote small businesses. To try to ensure that local businesses can get these contracts. To try to ensure that local workers can actually continue to work. And that is what this bill is doing. It is trying to look at innovative approaches through an apprenticeship

program that creates a preference for those local businesses, if they have that type of training. For those reasons, I stand in support."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 19, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Final Reading by a vote of 43 ayes to 2 noes, with Representatives Finnegan and Marumoto voting no, and with Representatives Bertram, Chang, McKelvey, Rhoads, Takai and Takumi being excused.

At 12:43 o'clock p.m. Representative Tokioka requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:45 o'clock p.m.

The Chair the announced:

"Members, I was hoping we could finish one more page. But it is 12:45 and I think we should recess until 1:30 for lunch."

At 12:45 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:48 o'clock p.m.

At this time, the Chair announced:

"Members, for your information, the Senate has adjourned at 1:08 p.m.

"Prior to the recess, we were on page 19. Conf. Com. Rep. No. 81 and S.B. No. 1 will be deferred to the end of the day."

Conf. Com. Rep. No. 81 and S.B. No. 1, SD 1, HD 2, CD 1:

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

Conf. Com. Rep. No. 82 and S.B. No. 1268, SD 2, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1268, SD 2, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

Representative Sagum's written remarks are as follows:

"Mr. Speaker, I stand in support of CCR82 – SB1268 SD2, HD1, CD1: Relating to Affordable Housing.

"I support the bill for the following reasons:

- Under the current law, DHHL does NOT receive an affordable housing credit when it develops a unit, even though it serves the neediest of families.
- Unlike a developer, DHHL does NOT recapture land, and infrastructure cost (roads, water, sewer, public facility, engineering design, construction management and interim financing cost) when it sells a home. This allows DHHL to sell its homes \$150,000 - \$200,000 less than a non-DHHL affordable unit. However, no affordable housing credit is issued.
- The passage of SB 1268 would substantially increase the total number of affordable housing units coming to market in the short term by:
 - Increasing DHHL's production rate at a one for one basis. For every unit DHHL is currently building, the legislation could potentially add or subsidize an additional unit.

- Bringing non-DHHL affordable housing units to market faster by providing developers a tool to help their projects financially 'pencil-out'.
- Establishing an incentive for entitled projects that are deemed not financially viable to be back on the table for consideration.
- The bill will play a critical role in getting the construction industry kick-started again and will be a key component of getting our labor community back to work.

"Like in all residential development projects, the respective developer, DHHL included, must interface with their respective county leadership throughout the course of the project, in order for a project to be successful. While SB1268 may diminish a county's role in influencing where an affordable housing unit is built in a county, it maintains authority over all other approvals (including, but not limited to sewer, water, drainage, public safety, horizontal and vertical permits, etc.). In other words, the county will continue to maintain a significant amount of leverage over DHHL and their respective developer.

"This bill is definitely a win-win situation for all parties concerned."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1268, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO AFFORDABLE HOUSING," passed Final Reading by a vote of 43 ayes to 2 noes, with Representatives Berg and Wakai voting no, and with Representatives Bertram, Chang, McKelvey, Rhoads, Takai and Takumi being excused.

At 1:50 o'clock p.m., the Chair noted that the following bills passed Final Reading:

S.B. No. 55, SD 1, HD 1, CD 1
 S.B. No. 50, SD 1, HD 2, CD 1
 S.B. No. 1338, SD 2, HD 2, CD 1
 S.B. No. 19, SD 1, HD 2, CD 1
 S.B. No. 1268, SD 2, HD 1, CD 1

Conf. Com. Rep. No. 84 and S.B. No. 536, SD 1, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 536, SD 1, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I'm rising in strong support. This is the Starlight Reserve Bill. Mr. Speaker, if you lived on a Neighbor Island or on the Big Island, and you stretched out on the grass and looked overhead, you would see a sky just filled with stars, and it's beautiful. If you lived on the Windward side of Oahu, downtown Honolulu, most areas on Oahu, you would see urban light, blocking out all of the stars.

"Mr. Speaker, this is a wonderful bill. I like to call it Starlight Express, because it will be an express-way to viewing our skies again. Thank you."

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

"Thank you, Mr. Speaker. Once again, in strong support, and I echo the words of the Representative from Kailua. And, just to add, there are so many costs to the irresponsible use of electricity, and at the same time, we must protect, again, I reiterate the pockets of excellence that we have, one being Mauna Kea.

"If anyone's had the chance to see the movie, Earth that is playing in some of the theaters right now, you'll see a sky that is truly without lights and what it originally looked like. Thank you."

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

Representative C. Lee's written remarks are as follows:

"I think this is a great step forward for our environment, and it will help ensure that our children will be able to look up in wonder at our night sky as our grandparents and great grandparents once did. I want to thank Mr. Richard Wainscoat at the Institute for Astronomy and everyone who worked so hard to make this a reality. 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. 536, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO STARLIGHT RESERVE," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 89 and S.B. No. 1073, SD 1, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1073, SD 1, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise in opposition to this measure. Mr. Speaker, this is a well-intended bill. It has health implications, but it also has psychological implications and I think it's potentially dangerous. The effect of this bill literally forces everyone who is a prisoner to stop smoking immediately. 'Cold turkey.' Wham.

"My fear is that this bill is playing with criminal minds in ways that may be dangerous. Will they strike out? Will they compensate with other aggressive behavior? Or, are there things that we should learn, by having upwards of 75% of the prisoners smoke. That's an estimate. That's double what otherwise we think of as all Asians are big smokers.

"So, if we're going to do this by one swoop bill, I think we have to be mindful of unintended consequences and what we're dealing with in an institutional setting, where people are basically caged up, and their only retreat, psychologically or where they may be free, is their tobacco.

"Now, I don't want to promote tobacco, but I also don't want to promote more criminal behavior of criminals. So, Mr. Speaker, I think we have to really watch the unintended consequences of this, and watch it and measure it very, very effectively and astutely. Thank you."

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

"Thank you, Mr. Speaker. I stand in support, with just some reservations. Actually the reverse argument to some extent, is that we should be making sure that everyone does not smoke, and my understanding is that the prison guards, etc. will be allowed to smoke. It's just the prisoners that are not allowed to smoke. So to me, it should be everybody. Everybody on the property, in the direction of health. Thank you."

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

"Mr. Speaker, I'm in support of the measure. I actually do agree with Representative Ching, in that I think it probably would be a good idea that we didn't have a specific smoking area for the staff, because as we know, smoking has long term health effects. And I think it's actually a good thing that we're doing for prisoners. Many of them are there for many years, and this is one way we can start them on the way for a healthy life.

"I have to disagree with the tobacco advocate across the aisle. We've heard a lot of information from him that's false in the past when we were discussing smoking, but there's no doubt scientific evidence tells us that smoking causes lung cancer and other kinds of diseases. We are responsible for the healthcare of prisoners, and to have them refrain from tobacco is to our advantage. Thank you."

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

"Mr. Speaker, I'm standing in support. I would like to address actually, some of the comments made by all three of the previous speakers, even though some are with reservations. In regards to why this bill came forward, this was at the request of the Public Safety Department. Basically, the bill was intended to make the corrections facilities fall in line with the rest of the State buildings and codes that we passed previously, regarding smoking prohibitions.

"Mr. Speaker, these facilities house people 24-hours a day, and require that we have skilled ACOs work and monitor the inmates, as well as for their own safety. The reason why there was a provision put in to allow a designated area by the warden for them to smoke, Mr. Speaker, is that for some of these people who work there, they smoke by their own choice, since smoking is a legal choice. It's an addiction. It's a poor health choice, but it's still their right, as adults to smoke.

"Mr. Speaker, these facilities are designed to be enclosed at a high security level. And so the question that came before this Committee was the issue of not only ensuring the safety of the inmates, but ensuring that the people who chose this habit be able to have it in a safe and protected area, as well as for them to have the ability to respond during a crisis, rather than them being allowed to be off-campus, which would then impede potentially some security concerns.

"So, Mr. Speaker, this was a good compromise between the union, as well as the Department, and I stand in strong support. Thank you."

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

"Thank you, Mr. Speaker. I stand in opposition and just have a few comments. Mr. Speaker, I hate smoking. I don't like smoking. When I'm next to people who smoke, I sometimes shame them into not smoking anymore around me. But, one of the difficulties that I have with this bill is, like any piece of legislation that we take a look at, we have to say 'How realistic is it? What kind of problems and consequences do you get from making a law like this?' And, I'm just envisioning, you have, say 70% of the population who are prisoners at a correctional facility, and they're going 'cold turkey' and not being able to smoke. Okay, great. It will be great for their health.

"The problem that I have is, I've been around a person in my family who tried to quit, and it was miserable. Are there going to be other things out there that are going to assist them in not smoking? What kind of programs are there going to be? To take something like this that is an addiction, that has 70% of the population who are smokers in a prison facility, to just all of a sudden stop smoking. I'm imagining that it's not going to go all that smoothly.

"So, as a normal person, a lay person who's looking into this situation, I think there should be some kind of ability to help these smokers get back on track. There's other things, like 70% of our disease in our health costs have to do with preventable types of health issues and disease. Are we going to mandate that now in the prison, because it's better for their health to go and eat only organic fruits and vegetables, and no more sodas, I don't even know if they have sodas there. Do they have a nutrition program for them and mandate that everybody exercises?

"So, I'm just looking at the reality of this. And then on top of that, you go and you say, okay, but there are exceptions. And the exception is for volunteers who come in, as well as the workers there, to have a place to smoke. So, you're not mandating that they quit smoking.

"Mr. Speaker, I'm sure many of the people on this Floor have been to Halawa Prison, or some of those other prisons and did a walk around tour and a visit. I would just hate for a situation to get violent, because these people who have an addiction and stop, and 70% of them, according to the previous speaker, are smokers. I don't know, I think that's a recipe for disaster. I hope everyone else is right, and I hope that it'll be a smooth transition and there won't be danger and more fights within the prison system, or whatever it might be, but I have just got to remind everybody that this is an addiction, and as much as we want to stop people from

smoking, I seriously think that it could have some negative consequences. Thank you."

Representative Ward rose, stating:

"Mr. Speaker, I rise in point of personal privilege. Mr. Speaker, I resent being called on this Floor an, 'advocate of tobacco.' I'm not an advocate of tobacco. When earlier I was called an advocate of tobacco, it's referenced to when I had spoken for those who are the less economically-able to buy cigarettes when the tax went up. Is speaking up for the poor an advocate for tobacco? For those who are in prison who have a psychological problem, because of committing murder, or other things, and I speak up for them, am I an advocate for tobacco? I think not, and I think that needs to be corrected in the record. Thank you."

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

"Thank you, Mr. Speaker. In strong support. A couple years ago on a site-visit, I was at OCCC, and I was noticing how the inmates were smoking in the prison. And, I got an idea, and I later learned that for the most part, State prisons had banned smoking, or were in the process of banning smoking. And, there were some issues where the prison guards would have to light cigarettes of those State inmates. And, the prison guards believed that the prisoners deliberately were blowing smoke back in their face. So, that's one of the reasons I support this bill."

"Also, there are a number of law abiding citizens who aren't allowed to smoke in State facilities or restaurants, and other areas throughout the community. And, I've talked with a number of individuals who are the pro-smoking lobby and explained my point of view, and to an extent, they supported me. So, I think that this is a step in the right direction, and that smoking is a privilege, not a right, and that prisons will be a better place if we remove smoking from there. For the most part in all prisons in the State, smoking has already been removed, but now with this law passing, it will be on the books. Thank you."

Representative Yamane rose to respond, stating:

"Thank you, Mr. Speaker. In rebuttal. Mr. Speaker, in regards to the comments made by my fellow Health Committee member and Minority Leader, the fact that you have to keep in mind is that cigarettes are a contraband in the prisons. So, if inmates are smoking, they are breaking the rules within the prison, because they're holding contraband, unless they are proposing to change those rules amongst the prisoners. But if the intent is to support the prisoners being allowed to break prison rules, then I can understand that position.

"Mr. Speaker, the other question is regarding the concern about people's safety during the period of withdrawals. What better place than a prison? They are being monitored 24/7. They can get medical care. They are in a place that is safe for themselves and others. I rest my case. Thank you, Mr. Speaker."

Representative Finnegan rose to respond, stating:

"Thank you, Mr. Speaker. I stand in opposition. The Chair makes some good points in regards to it being contraband, so I guess we don't have a problem. Then just go ahead and take away the cigarettes. Then they shouldn't be in there. Then there's some kind of leak, or there's other problems that gets this contraband material into the prison system, and maybe you should take a look at doing that.

"Mr. Speaker, I guess there's much breakdown in the prison system if they're allowing contraband, and them smoking right in front of them. I think that that needs to be addressed, Mr. Speaker, but I'm still in opposition to the bill. Thank you."

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

"Yes, Mr. Speaker. I speak in favor, but I'm tempted to call a recess so they can go and speak to one who knows all about the prison system. She's right over there. Go and ask her what it's all about. Maybe you can ask for a recess. 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. 1073, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONAL FACILITIES," passed Final Reading by a vote of 47 ayes to 2 noes, with Representatives Finnegan and Ward voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 91 and S.B. No. 764, SD 2, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 764, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, may I get a request on a potential conflict? My law firm represents a landowner who could potentially be impacted by this legislation, and for which I am not assigned to and have done no work for. Thank you," and the Chair ruled, "no conflict."

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

"Thank you, Mr. Speaker. I'm rising to speak in strong support of the measure. Mr. Speaker, some of us may have received an unsolicited opinion from a deputy attorney general who is not a scholar in constitutional law. I wanted to make sure that the Members would be able to see the opinion from a true constitutional scholar, Professor Jon Van Dyke, who has been a renowned expert in constitutional law for probably over 30 years. I was privileged to be able to take Con Law from him at the University of Hawaii Law School, and from firsthand experience, I can tell you, he is extremely knowledgeable.

"I would like to have permission to insert portions of his opinion in the Journal. And, Mr. Speaker, I wanted to just explain to the Members again why, just one human reason why, that this bill is so important. When we were hearing this measure, a young man from Maui who had been hired by this Mainland operation, which was opposing the bill, was given his directions by the Mainland operation - go in and present the reasons why the Committee should not pass the bill. He did so. He did a very credible job, was very articulate, and when the Committee decided to move ahead with the bill and things backfired because this Mainland operation had a 'gag order' on the tenants, preventing them from talking to each other. This Mainland operation fired the Maui kid. Not for cause, not for anything. Just for doing his job, doing what they had told him to do. And they fired him. So, this is the kind of operators these local companies are dealing with. Our local small businesses are dealing with what I call, the 'Darth Vader' of landlords. Thank you."

Representative Thielen submitted the following:

"....

The letters by the Department of the Attorney General suggest that the language in S.B. 764 seeking to clarify provisions of commercial leases may violate the Contract Clause and the Taking Clause of the U.S. Constitution. It is notable, however, that the Department's letters are couched in careful language and avoid any definitive conclusion. The April 23 letter says only I that "it *appears* this bill *may* violate the Contracts Clause" (page 6, emphasis added) and the April 28 letter says only that "in addition to the bill's proposals *possibly* violating the Contracts Clause and being found unconstitutional, the proposals *may also* constitute 'takings' that give rise to a right to receive compensation from the sovereign" (pages 2-3, emphasis added).

The April 23 letter acknowledges that the Contract Clause "is liberally construed and prohibits only unreasonable impairment" (page 3), but then goes on (at page 5) to assert that the government "must use the least intrusive means to achieve its goals" and "is not free to impose a drastic impairment when an evident and more moderate course would serve its purposes equally well." The error in this part of the letter is that these statements on page 5 are drawn from a case involving a

governmental body seeking to adjust its own contractual obligations (*United States Trust Co. v. New Jersey*, 431 U.S. 1 (1977)), whereas S.B. 764 relates only to contracts between private parties. It is blackletter hornbook law that "[t]he current law under the contracts clause distinguishes government interference with private contracts from government interference with its own contractual obligations." ERWIN CHERMERINSKY, *CONSTITUTIONAL LAW: PRINCIPLES AND POLICIES* 635 (3d ed. 2006). "[I]t is clear that laws impairing the government's obligations under its own contracts will be subjected to much more careful review than will laws interfering with private contracts." *Id.* at 639. Although something akin to "strict scrutiny" judicial review applies to statutes relating to government contracts, *id.*, "state and local laws are upheld, even if they interfere with contractual rights, so long as they meet a rational basis test," and "[n]ot surprisingly, virtually all laws have been found to meet this deferential scrutiny." *Id.* at 637.

Under the deferential scrutiny that applies to statutes relating to private contracts, such statutes are upheld unless they substantially impair a contractual relationship *and* fail to have a rational relationship to a significant and legitimate public purpose. *Id.* at 636. The Hawaii Supreme Court in *In re Herrick*, 82 Hawaii 329, 922 P.2d 942 (1996), used this same general formula, indicating that Hawaii follows federal law in utilizing this test. This opinion says at one point the state law should be "a reasonable and narrowly-drawn means of promoting the significant and public purpose," *id.* at 340, 922 P.2d at 953, and later that the law must be "a reasonable and appropriate mechanism" to achieve the government's goals. *Id.* at 342, 922 P.2d at 955. In applying this test, the Court makes it clear that governmental bodies have some leeway in achieving their goals and need not use the least restrictive, least drastic, or least intrusive alternative. *Id.*

The language in S.B. 764 does not substantially impair any contractual relationship, it only clarifies terms in existing leases, and it has a rational and logical relationship to the goals set out in Section 1 of the Bill. The Department is incorrect in asserting (at page 5 of its April 23 letter) that this Bill "must use the least intrusive means to achieve its goals."

The Department's April 28 letter discussing the Takings Clause is also flawed in its analysis. Surprisingly, it relies heavily on two Texas cases that have no precedential force in Hawaii. The only U.S. Supreme Court cases cited are *Penn Central Transp. Co. v. City of New York*, 438 U.S. 104 (1978), where the Court rejected a challenge based on the Takings Clause by explaining that the historical landmark law did not deny the owners all profitable use of Grand Central Terminal and, in fact, permitted some development of the air rights above the building, and *Keystone Bituminous Coal Ass'n v. DeBenedictis*, 480 U.S. 470 (1987), where the Court ruled that the Takings Clause had not been violated by a Pennsylvania law that restricted the removal of coal from underneath buildings. In other words, the Department's letter offers no caselaw support for its conclusion, and, in fact, no cases can be found to support its concerns. A recent survey of U.S. Supreme Court decisions concludes that "the Court has not found a taking so long as the government regulation met a rational basis test and so long as the regulation did not prevent almost all economically viable use of the property." ERWIN CHERMERINSKY, *CONSTITUTIONAL LAW: PRINCIPLES AND POLICIES* 658 (3d ed. 2006). Under this test, the language of S.B. No. 764 is certainly constitutional. It permits "economically viable use of the property" by the landowners and its clarifying language is rationally related to the purposes listed in Section 1.

In my professional judgment, the concerns raised by the Department of the Attorney General in its letters dated April 23 and April 28 are without merit, and Bill 764, if challenged, would, without question, be upheld as constitutional.

Sincerely yours,
/s/
Jon M. Van Dyke"

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

Representative Saiki's written remarks are as follows:

"Mr. Speaker, I rise in opposition to this measure and incorporate my comments made on HB 1593 (Relating to Real Property) on March 10, 2009. 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. 764, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY," passed Final Reading by a vote of 40 ayes to 9 noes, with Representatives Berg, Hanohano, Har, C. Lee, Morita, Nishimoto, Saiki, Takumi and Tokioka voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 95 and S.B. No. 1223, SD 1, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1223, SD 1, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I stand in strong support. I think I've spoken on this measure before, so I'll try to make it brief, but I still want to reiterate that I think it's always a good direction when we promote products that are made in our State. There are examples of other destinations in the world that make complete use out of their attractiveness. Tahiti is one. Oftentimes we say things like, Tahiti vanilla, Tahiti this. Hawaii has that same attractiveness, and we want to make sure that we're using it to our utmost ability, and help our people who are making things in Hawaii. 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. 1223, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAII MADE PRODUCTS," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 96 and S.B. No. 539, SD 1, HD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 539, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONS," passed Final Reading by a vote of 48 ayes to 1 no, with Representative Finnegan voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 97 and S.B. No. 851, SD 1, HD 3, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 851, SD 1, HD 3, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD SUPPORT ENFORCEMENT," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

At 2:10 o'clock p.m., the Chair noted that the following bills passed Final Reading:

S.B. No. 536, SD 1, HD 1, CD 1
 S.B. No. 1073, SD 1, HD 2, CD 1
 S.B. No. 764, SD 2, HD 2, CD 1
 S.B. No. 1223, SD 1, HD 2, CD 1
 S.B. No. 539, SD 1, HD 1, CD 1
 S.B. No. 851, SD 1, HD 3, CD 1

Conf. Com. Rep. No. 99 and S.B. No. 695, SD 1, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 695, SD 1, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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. 695, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Final Reading by a vote of 42 ayes to 6 noes, with Representatives Ching, Finnegan, Marumoto, Pine, Thielen and Ward voting no, and with Representatives Bertram, Hanohano and Takai being excused.

Conf. Com. Rep. No. 101 and S.B. No. 1250, SD 1, HD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 1250, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Final Reading by a vote of 48 ayes, with Representatives Bertram, Hanohano and Takai being excused.

At 2:11 o'clock p.m. Representative Finnegan requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 2:12 o'clock p.m.

Conf. Com. Rep. No. 105 and S.B. No. 1224, SD 1, HD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 1224, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO AIRPORT CONCESSIONS," passed Final Reading by a vote of 47 ayes to 1 no, with Representative Thielen voting no, and with Representatives Bertram, Hanohano and Takai being excused.

Conf. Com. Rep. No. 107 and S.B. No. 1345, SD 1, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1345, SD 1, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. A 'no' vote, please. And, Mr. Speaker, this is another instance where renewable energy will have a harder time moving forward, and I'd like to reference my remarks on Senate Bill 50, Conf. Com. Rep. No. 74. 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. 1345, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Final Reading by a vote of 47 ayes to 1 no, with Representative Thielen voting no, and with Representatives Bertram, Hanohano and Takai being excused.

Conf. Com. Rep. No. 108 and S.B. No. 1160, SD 2, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1160, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

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:

"I have reservations. There is a section in this bill that requires legislative approval for the sale of public housing projects. A significant

percentage of public housing is on ceded land, and the rest of it is on public land. I do not support the sale of ceded or public land.

"Furthermore, this bill absolves HPHA from its failure to utilize the existing process to evict tenants, a process which is the result of many negotiations between HPHA, tenants, and advocates. By moving to a grievance and then eviction board, HPHA is effectively moving all issues small and large to the eviction board level. Under the current process, small issues, like miscalculation of rent or utility charges can be dealt with informally. This new process will require a hearing officer for all matters, and result in unnecessary increased costs to the State.

"Finally, the consideration of school attendance and school records of minor children in an eviction proceeding seems beyond the scope of the Public Housing Authority. In what other landlord-tenant situation do we consider school attendance and allow a hearings officer or group of citizens to review a matter that is beyond the direct scope of the eviction at hand?"

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1160, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII PUBLIC HOUSING AUTHORITY," passed Final Reading by a vote of 48 ayes, with Representatives Bertram, Hanohano and Takai being excused.

At 2:14 o'clock p.m., the Chair noted that the following bills passed Final Reading:

S.B. No. 695, SD 1, HD 1, CD 1
 S.B. No. 1250, SD 1, HD 1, CD 1
 S.B. No. 1224, SD 1, HD 2, CD 1
 S.B. No. 1345, SD 1, HD 1, CD 1
 S.B. No. 1160, SD 2, HD 2, CD 1

At 2:14 o'clock p.m. Representative Marumoto requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 2:15 o'clock p.m.

Conf. Com. Rep. No. 112 and H.B. No. 1536, HD 2, SD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1536, HD 2, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

At 2:15 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 2:16 o'clock p.m.

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

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

"Mr. Speaker, I rise to speak in favor of House Bill No. 1536, House Draft 2, Senate Draft 1, Conference Draft 1, Relating to Salaries.

"This bill seeks to reduce the cost of government during these austere economic times by rolling back the salaries of government officials over the next two fiscal years. More specifically, this bill:

- Reduces the annual salaries of the Governor, the Lieutenant Governor, the Justices and Judges of all State courts, the Administrative Director of the State, and the department heads or executive officers and the deputies or assistants to the department heads or executive officers of the 16 State departments by 5% of

what the salary will be as of June 30, 2009, between July 1, 2009 and June 30, 2011;

- Reduces the annual salaries of members of the legislature by 5% of what the salary will be as of June 30, 2009, between July 1, 2009 and June 30, 2009;
- Provides that the salaries be reinstated on July 1, 2011 at the level it would have been with salary increases recommended by the Commission on Salaries taking effect on July 1, 2012 and January 1, 2012, respectively for the Executive, Judicial and Legislative Branch officers and employees;
- Stipulates that leaves of absences for vacation and sick leave, with pay, for affected employees be the same as those negotiated, mediated, or arbitrated under collective bargaining for unit 13, so long as on July 1, 2011, the leaves of absences will be restored to the level they would have been on July 1, 2009; and
- Clarifies that this Act not be construed to impart any right to additional compensation previously authorized through the adoption of the commission on salaries' recommendations that were previously approved by the 2007 Legislature.

"By way of background, in November 2006, a constitutional amendment approved by the voters of Hawaii established the Commission on Salaries (Commission), which was tasked to provide salary recommendations for executives in all three branches of government on a six-year basis. The first recommendations for the period between 2007 and 2013 were submitted by the Commission in March 2007 and automatically took effect when they were not disapproved by the Legislature during the 2007 Regular Session.

" For the record, I would like three charts to be inserted that show the recommendations approved in 2007 for the Executive, Legislative, and Judicial branch officials. These charts were provided by the Office of the Governor from testimony submitted on this bill.

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2007 SALARY COMMISSION

Table 3 - Legislative Salaries and Costs

Position	No. of Empl.	Current 1/1/2007		1/1/2009		1/1/2010		1/1/2011		1/1/2012		1/1/2013		1/1/2014		Total Salaries 1/1/2009 to 12/31/2014
		Annual Salary	Total Salaries	Annual Salary	Total Salaries	Annual Salary	Total Salaries	Annual Salary	Total Salaries	Annual Salary	Total Salaries	Annual Salary	Total Salaries	Annual Salary	Total Salaries	
House Speaker/Senate President	2	43,400	86,800	45,000	90,000	45,000	90,000	46,700	93,400	46,700	93,400	46,700	93,400	46,700	93,400	553,600
				29.5%		57.912	115,824	3.0%		3.1%		3.1%		3.1%		
Representative/Senator	74	35,900	2,656,600	37,500	2,775,000	37,500	2,775,000	39,200	2,900,800	39,200	2,900,800	39,200	2,900,800	39,200	2,900,800	17,153,200
				35.7%		50.412	3,730,488	3.5%		3.5%		3.5%		3.5%		
	74	35,900	2,656,600	48,708	3,604,392	50,412	3,730,488	52,176	3,861,024	54,000	3,996,000	55,896	4,136,304	57,852	4,281,048	23,609,256
Total Current Salaries	76		2,743,400		2,865,000		2,865,000		2,994,200		2,994,200		2,994,200		2,994,200	17,706,800
Total Recommended Salaries	76		2,743,400		3,716,808		3,846,312		3,960,376		4,119,000		4,263,096		4,411,752	24,337,344
Difference between Recommended Salaries and Current Approved Salaries																
Percent Increase					29.7%	34.3%	981,312		986,176		1,124,800		1,266,896		1,417,552	6,630,544
Year-to-year increase in Recommended Salaries					973,408	129,504	129,504		134,064		138,624		144,096		148,656	
Percent Increase					35.5%	3.5%		3.5%		3.5%		3.5%		3.5%		

Note: Legislative Salaries costed by calendar year due to the increases becoming effective January 1 of each year beginning in 2009.

Effective 7/1/2012

Current salaries approved to 12/31/2012. 1/1/2013 and 1/1/2014 current costs computed at 12/31/2012 rates.

2009 SALARY COMMISSION

Table 1 - Executive Salaries and Costs

Position	No. of Empl.	7/1/2006		7/1/2007		7/1/2008		7/1/2009		7/1/2010		7/1/2011		7/1/2012		Total Salaries 7/1/2007 to 6/30/2013
		Annual Salary	Total Salaries	Annual Salary	Total Salaries	Annual Salary	Total Salaries	Annual Salary	Total Salaries	Annual Salary	Total Salaries	Annual Salary	Total Salaries	Annual Salary	Total Salaries	
Governor ¹	1	112,000	112,000	114,240	114,240	116,525	116,525	118,855	118,855	121,232	121,232	123,657	123,657	126,130	126,130	787,572
Recommend		100,000	104,825	117,600	117,600	123,480	123,480	129,660	129,660	134,196	134,196	138,868	138,868	143,748	143,748	787,572
Current		100,000	104,825	117,600	117,600	123,480	123,480	129,660	129,660	134,196	134,196	138,868	138,868	143,748	143,748	787,572
Lieutenant Governor ^{2,3}	1	100,000	95,850	102,000	102,000	104,040	104,040	106,121	106,121	108,243	108,243	110,408	110,408	112,616	112,616	643,428
Recommend		100,000	95,850	102,000	102,000	104,040	104,040	106,121	106,121	108,243	108,243	110,408	110,408	112,616	112,616	643,428
Current		100,000	95,850	102,000	102,000	104,040	104,040	106,121	106,121	108,243	108,243	110,408	110,408	112,616	112,616	643,428
Tier 1	1	100,000	95,850	102,000	102,000	104,040	104,040	106,121	106,121	108,243	108,243	110,408	110,408	112,616	112,616	643,428
Admin. Dir. of the State ^{2,3}	1	109,242	109,242	111,427	111,427	113,655	113,655	115,928	115,928	118,247	118,247	120,612	120,612	123,026	123,026	758,508
Recommend		109,242	109,242	111,427	111,427	113,655	113,655	115,928	115,928	118,247	118,247	120,612	120,612	123,026	123,026	758,508
Current		109,242	109,242	111,427	111,427	113,655	113,655	115,928	115,928	118,247	118,247	120,612	120,612	123,026	123,026	758,508
Tier 1 Deputy Head	1	109,242	109,242	111,427	111,427	113,655	113,655	115,928	115,928	118,247	118,247	120,612	120,612	123,026	123,026	758,508
Recommend		109,242	109,242	111,427	111,427	113,655	113,655	115,928	115,928	118,247	118,247	120,612	120,612	123,026	123,026	758,508
Current		109,242	109,242	111,427	111,427	113,655	113,655	115,928	115,928	118,247	118,247	120,612	120,612	123,026	123,026	758,508
Tier 2 Deputy Head	6	104,040	624,240	106,121	636,725	108,243	649,459	110,408	662,448	112,616	675,597	114,869	689,211	117,172	700,462	4,022,753
Recommend		104,040	624,240	106,121	636,725	108,243	649,459	110,408	662,448	112,616	675,597	114,869	689,211	117,172	700,462	4,022,753
Current		104,040	624,240	106,121	636,725	108,243	649,459	110,408	662,448	112,616	675,597	114,869	689,211	117,172	700,462	4,022,753
DOH, DOT, DAGS, DCCA, TAX, B&F	6	104,040	624,240	106,121	636,725	108,243	649,459	110,408	662,448	112,616	675,597	114,869	689,211	117,172	700,462	4,022,753
Tier 3 Dept. Heads ⁴	4	98,838	395,352	100,815	403,259	102,831	411,324	104,888	419,551	106,955	427,942	109,025	436,501	111,100	445,116	2,535,077
Recommend		98,838	395,352	100,815	403,259	102,831	411,324	104,888	419,551	106,955	427,942	109,025	436,501	111,100	445,116	2,535,077
Current		98,838	395,352	100,815	403,259	102,831	411,324	104,888	419,551	106,955	427,942	109,025	436,501	111,100	445,116	2,535,077
DHS, DLJR, DLNR, DBEDT	4	98,838	395,352	100,815	403,259	102,831	411,324	104,888	419,551	106,955	427,942	109,025	436,501	111,100	445,116	2,535,077
Recommend		98,838	395,352	100,815	403,259	102,831	411,324	104,888	419,551	106,955	427,942	109,025	436,501	111,100	445,116	2,535,077
Current		98,838	395,352	100,815	403,259	102,831	411,324	104,888	419,551	106,955	427,942	109,025	436,501	111,100	445,116	2,535,077
Tier 4 Dept. Heads ^{3,4}	4	93,636	374,544	95,509	382,035	97,419	389,676	99,367	397,469	101,355	405,418	103,382	413,527	105,445	423,692	2,401,652
Recommend		93,636	374,544	95,509	382,035	97,419	389,676	99,367	397,469	101,355	405,418	103,382	413,527	105,445	423,692	2,401,652
Current		93,636	374,544	95,509	382,035	97,419	389,676	99,367	397,469	101,355	405,418	103,382	413,527	105,445	423,692	2,401,652
DOA, DHHL, PSD, DHRD	4	93,636	374,544	95,509	382,035	97,419	389,676	99,367	397,469	101,355	405,418	103,382	413,527	105,445	423,692	2,401,652
Recommend		93,636	374,544	95,509	382,035	97,419	389,676	99,367	397,469	101,355	405,418	103,382	413,527	105,445	423,692	2,401,652
Current		93,636	374,544	95,509	382,035	97,419	389,676	99,367	397,469	101,355	405,418	103,382	413,527	105,445	423,692	2,401,652
Tier 1 Deputy Dept. Head	1	100,503	100,503	102,513	102,513	104,563	104,563	106,654	106,654	108,787	108,787	110,963	110,963	113,182	113,182	644,443
Recommend		100,503	100,503	102,513	102,513	104,563	104,563	106,654	106,654	108,787	108,787	110,963	110,963	113,182	113,182	644,443
Current		100,503	100,503	102,513	102,513	104,563	104,563	106,654	106,654	108,787	108,787	110,963	110,963	113,182	113,182	644,443
Attorney General	1	100,503	100,503	102,513	102,513	104,563	104,563	106,654	106,654	108,787	108,787	110,963	110,963	113,182	113,182	644,443
Recommend		100,503	100,503	102,513	102,513	104,563	104,563	106,654	106,654	108,787	108,787	110,963	110,963	113,182	113,182	644,443
Current		100,503	100,503	102,513	102,513	104,563	104,563	106,654	106,654	108,787	108,787	110,963	110,963	113,182	113,182	644,443
Tier 2 Deputy Dept. Heads	12	95,717	1,148,602	97,631	1,171,574	99,584	1,195,005	101,575	1,218,905	103,607	1,243,283	105,679	1,268,148	107,782	1,292,999	7,365,065
Recommend		95,717	1,148,602	97,631	1,171,574	99,584	1,195,005	101,575	1,218,905	103,607	1,243,283	105,679	1,268,148	107,782	1,292,999	7,365,065
Current		95,717	1,148,602	97,631	1,171,574	99,584	1,195,005	101,575	1,218,905	103,607	1,243,283	105,679	1,268,148	107,782	1,292,999	7,365,065
DOH, DOT, DAGS, DCCA, TAX, B&F	12	95,717	1,148,602	97,631	1,171,574	99,584	1,195,005	101,575	1,218,905	103,607	1,243,283	105,679	1,268,148	107,782	1,292,999	7,365,065
Recommend		95,717	1,148,602	97,631	1,171,574	99,584	1,195,005	101,575	1,218,905	103,607	1,243,283	105,679	1,268,148	107,782	1,292,999	7,365,065
Current		95,717	1,148,602	97,631	1,171,574	99,584	1,195,005	101,575	1,218,905	103,607	1,243,283	105,679	1,268,148	107,782	1,292,999	7,365,065
Tier 3 Deputy Dept. Heads ⁴	5	90,931	454,655	92,750	463,746	94,605	473,023	96,497	482,483	98,427	492,133	100,399	501,976	102,404	512,880	2,915,338
Recommend		90,931	454,655	92,750	463,746	94,605	473,023	96,497	482,483	98,427	492,133	100,399	501,976	102,404	512,880	2,915,338
Current		90,931	454,655	92,750	463,746	94,605	473,023	96,497	482,483	98,427	492,133	100,399	501,976	102,404	512,880	2,915,338
DHS, DLJR, DLNR, DBEDT	5	90,931	454,655	92,750	463,746	94,605	473,023	96,497	482,483	98,427	492,133	100,399	501,976	102,404	512,880	2,915,338
Recommend		90,931	454,655	92,750	463,746	94,605	473,023	96,497	482,483	98,427	492,133	100,399	501,976	102,404	512,880	2,915,338
Current		90,931	454,655	92,750	463,746	94,605	473,023	96,497	482,483	98,427	492,133	100,399	501,976	102,404	512,880	2,915,338
Tier 4 Deputy Dept. Heads ^{3,4}	6	86,145	516,871	87,868	527,208	89,625	537,752	91,418	548,507	93,246	559,478	95,111	570,667	97,022	582,274	3,313,740
Recommend		86,145	516,871	87,868	527,208	89,625	537,752	91,418	548,507	93,246	559,478	95,111	570,667	97,022	582,274	3,313,740
Current		86,145	516,871	87,868	527,208	89,625	537,752	91,418	548,507	93,246	559,478	95,111	570,667	97,022	582,274	3,313,740
DOA, DHHL, PSD, DHRD	6	86,145	516,871	87,868	527,208	89,625	537,752	91,418	548,507	93,246	559,478	95,111	570,667	97,022	582,274	3,313,740
Recommend		86,145	516,871	87,868	527,208	89,625	537,752	91,418	548,507	93,246	559,478	95,111	570,667	97,022	582,274	3,313,740
Current		86,145	516,871	87,868	527,208	89,625	537,752	91,418	548,507	93,246	559,478	95,111	570,667	97,022	582,274	3,313,740
Total Current Salaries	42	4,020,534	4,116,728	4,237,789	4,368,705	4,503,044	4,641,812	4,785,121	4,933,475	5,085,924	5,242,468	5,404,212	5,570,256	5,740,700	5,915,744	25,888,568

2007 SALARY COMMISSION

Table 2 - Judicial Salaries and Costs

Position	No. of Empl.	7/1/2006 Current		7/1/2007 10.0%		7/1/2008 3.5%		7/1/2009 10.0%		7/1/2010 3.5%		7/1/2011 10.0%		7/1/2012 3.5%		Total Salaries 7/1/2007 to 6/30/2013
		Annual Salary	Total Salaries	Annual Salary	Total Salaries	Annual Salary	Total Salaries	Annual Salary	Total Salaries	Annual Salary	Total Salaries	Annual Salary	Total Salaries	Annual Salary	Total Salaries	
Chief Justice, Supreme	1	144,900	144,900	149,972	149,972	155,221	155,221	160,654	160,654	166,277	166,277	172,097	172,097	172,097	172,097	976,318
Associate Justice, Supreme	4	139,725	558,900	144,615	578,460	149,677	598,708	154,916	619,664	160,338	641,352	165,950	663,800	165,950	663,800	3,765,764
Chief Judge, Intermediate	1	134,550	134,550	139,259	139,259	144,133	144,133	149,178	149,178	154,399	154,399	159,803	159,803	159,803	159,803	906,575
Associate Judge, Intermediate	5	129,375	646,875	133,903	669,515	138,590	692,950	143,441	717,205	148,461	742,305	153,657	768,285	153,657	768,285	4,358,545
Circuit Court Judge	33	125,856	4,153,248	130,261	4,298,613	134,820	4,449,060	139,539	4,604,787	144,423	4,765,959	149,476	4,932,774	149,476	4,932,774	27,983,907
District Family/Per Diem Court Judge	46	118,611	5,456,106	122,762	5,647,052	127,059	5,844,714	131,506	6,049,276	136,109	6,281,014	140,873	6,480,158	140,873	6,480,158	36,762,372
Total Current Salaries	90	11,094,579	11,094,579	11,482,871	11,482,871	11,884,766	11,884,766	12,300,764	12,300,764	12,731,306	12,731,306	13,176,917	13,176,917	13,176,917	13,176,917	74,753,561
Difference between Recommended Salaries and Current Approved Salaries					721,405		746,954		1,593,892		1,649,638		2,642,179		3,195,547	10,549,615
Percent Increase					6.3%		6.3%		13.0%		13.0%		20.1%		24.3%	14.1%
Year-to-year Increase in Recommended Salaries					1,109,697		427,464		1,262,916		486,288		1,438,152		553,388	
Percent Increase					10.0%		3.5%		10.0%		3.5%		10.0%		3.5%	

Effective 7/1/2012
Current salaries approved to 6/30/2012. 7/1/2012 current costs computed at 7/1/2011 rates.

"Among other things, the Commission recommended that the salary increases be implemented on a staggered basis -- for the Legislative Branch, the salaries were to go into effect on January 1st, and for the Executive and Judicial Branches, the salaries were to go into effect on July 1st.

"Per the Commission's recommendations, the Legislature did not receive its first salary increase until January 1, 2009, at which time, the salary of the Speaker of the House of Representatives and the President of the Senate went from **\$43,400 to \$56,208.** For all other legislators, their salaries went from **\$35,900 to \$48,708.** To avoid conflicts of interest, the Legislature, does not approve or pass a law to get pay raises. The law created provides for the **disapproval** of all pay raises by concurrent resolution passed by the Legislature. Because legislatures are convened on a biennial basis, an increase authorized under the 24th Legislature cannot go into effect until the next Legislature is elected.

"According to the Commission's report:

*". . . In formulating recommendations on salary adjustments for members of the State Legislature, the Commission reviewed and evaluated the duties, responsibilities, and estimated time commitments of State legislators; conducted a comparative analysis with the duties, responsibilities, estimated time commitments and salaries of county council members, evaluated the ability of State legislators to supplement their legislative salary with a profession, business or other employment; evaluated the salaries of legislative staff; reviewed non-salary benefits of legislators; **considered the fact that legislative salaries remained unchanged for twelve years from 1993 to 2005; took into account that legislative salary adjustments offered by the Commission will not go into effect until 2009;** and considered several other items of relevance and interest. . . ." [Emphasis added.]*

"The Commission further found that:

*". . . Requirements and expectations placed upon legislators by constituents, along with the increasing complexity of issues that come before the Legislature, necessitate legislators to expend extensive amounts of time and effort on legislative matters during the months that the Legislature is in session and during the interim period between their annual and special legislative sessions. While legislators are considered to be part-time employees, it is apparent that their duties and responsibilities require more than that of a part-time employee. They perform many complex and time-consuming duties both during the legislative session as well as during the interim period between sessions. During session, legislators are involved with daily legislative sessions, public hearings, decision-making meetings on a wide variety of bills and resolutions, meetings and discussions with advocates, community meetings, and meetings and discussion on constituent concerns and inquiries. During the interim period between legislative sessions, legislators are often involved with community meetings, conducting site visitations and research, researching and drafting of legislative bills and resolutions, and the handling of constituent inquiries and concerns. . . The many demands imposed upon State legislators and the time required to fulfill their duties and responsibilities, restrict the ability of legislators to supplement their salary with a profession, business or other employment. The legislators' ability to supplement their income is further limited by conflicts, or a perception of conflict, with legislative responsibilities and duties. Fortunately, qualified individuals have been willing to serve despite concerns regarding compensation. **However, inadequate compensation, coupled with the restrictions to supplement the compensation, may limit the number of qualified individuals willing to serve as State legislators in the future.** . . ." [Emphasis added.]*

"These words were prophetic. During the Election of 2008, more incumbents were reelected unopposed than at any previous time since statehood. In fact, 24 of the 51, or nearly half of the House seats were filled without a general election.

"It is unfortunate that the economic downturn coincided at the time the first salary increase went into effect for the Legislature. Thanks, in large part, to the Governors' rhetoric, only the Legislature appears to be

criticized for its pay increases. In order to set the record straight, I note that:

- The Governor has received annual salary increases since 2006. Her salary went from \$94,780 to \$123,480 as of July 1, 2008; a 30% increase.
- The highest paid member of the Governor's cabinet, the Attorney General was getting paid \$85,000 in 2002. As of July 1, 2008, that has increased to \$113,655; a 33.7% increase.
- In contrast, legislators were getting paid \$32,000 in 1993. The January 1, 2009 raise puts legislators at \$48,708 – nearly 1/3 the salary of the Governor and less than 1/3 the salary of the Attorney General.

"Unfortunately, the once blue skies we saw in 2007 have darkened considerably in light of the \$2.1 billion shortfall we face for fiscal year 2009 and beyond, and we are all frightened at the prospects of the future. It is understandable that people are quick to respond when they see that we received a salary increase on January 1st.

"I wholeheartedly agree that we must lead by example, and during these austere times, we must all tighten our belts. But we must do it in a fair manner.

"It goes without saying that the Legislature will continue to be criticized and it will be up to each and every one of us to go to our constituents and explain this issue to them. What we do today is fair and responsible. Thank you."

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

"Thank you, Mr. Speaker. I rise with reservations and some comments. Thank you, Mr. Speaker. I know that I have the opportunity to insert written comments, but I think it would be much better if we spoke what our reservations are. The public is watching us carefully on this bill. I'm grateful that we have moved towards a 5% reduction across the board. I think we comply with constitutional requirements here.

"My one reservation, Mr. Speaker, is that as we move forward into the summer, as we look at all the cuts that are going to have to be made, as we look at what the Governor is going to be asking of our State employees, I'm not certain, I'm not sure that this 5% is enough. Thank you, Mr. Speaker."

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

"No need for written comments. I'd just like to use the words of the previous speaker as my own," and the Chair "so ordered."

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

"Yes, may I insert written comments in strong support of the 5% reduction and the suspension of our pay raise to January 1st, 2010. Thank you."

Representative Say's written remarks are as follows:

"Mr. Speaker, I rise in support of HB1536.

"This is an important bill and I am VERY proud of the Majority members in advancing this bill which reduces anticipated pay raises for the Legislature, Judicial and Executive Branches set by the Salary Commission. Legislators took the symbolic step of taking and enacting a 5% salary reduction, for as leaders, we must share in the State's burden. Many Majority members argued for even greater reductions, including a full roll back of the raises. However, because of differing opinions, this was the full extent of agreement. But, it is important to recognize these Members, and I wanted to sincerely thank them for considering and being willing to take deeper salary cuts."

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

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support to H.B. 1536 – Relating to Salaries.

"This bill reduces the salaries of the Governor, Lieutenant Governor, justices and judges of all State courts, Administrative Director of the State, departmental directors and deputy directors, and members of the Legislature.

"The downturn in the United States and global economy caused by the credit crisis, mortgage and financial securities market volatility, oil price fluctuations, and resulting uncertainty has impacted Hawaii and its residents. Unemployment has risen in the State and additional declines in tourism and retail sales are anticipated. This measure is necessary to help narrow the massive shortfall in the State budget. But even more importantly, we as leaders need to send the message to the citizens of Hawaii that we are in this together, and that we are doing everything we can to battle the economic hardships facing the State and taxpayers.

"In addition to salary deferrals, I support amendments to this measure for any salary rollbacks or furloughs taken by government employees as a result of collective bargaining discussions also apply to those covered by this bill; namely the Governor, Lt. Governor, State legislators, judges, department deputy directors, etc.

"State leaders must lead by example in this time of economic crisis by accepting the proposed salary deferrals in this measure, but we must also take on any salary rollbacks or furloughs taken by government employees as a result of collective bargaining discussions. Thank You."

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

Representative Aquino's written remarks are as follows:

"The intent of House Bill 1536 is to tighten our own belts as legislators during these times, and I believe this bill does just that. Leaders from all government branches will be affected by the proposed reduction and it tells the people of Hawaii that we are willing to do our part, including forgoing future salary adjustments."

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

Representative C. Lee's written remarks are as follows:

"I wasn't around when the Salary Commission approved the salary increases the Judiciary, Executive and Legislature recently received, but their timing could not be worse. I understand the level of the increase was out of the Legislature's hands, but this bill is not. I think it's important that if State employees might have to take a cut in pay or lose benefits, we should be the first to, and I encourage everyone to vote yes on this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1536, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SALARIES," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 114 and H.B. No. 1550, HD 2, SD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1550, HD 2, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Just short comments in support. I'm just glad that this doesn't have tax on the pensions. Thank you."

The motion was put to vote by the Chair and carried, and report of the Committee was adopted and H.B. No. 1550, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 115 and H.B. No. 952, HD 1, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 952, HD 1, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, I am in opposition. This bill is the 'card check' bill, and a lot of business people are in opposition to it. There are a lot of other people who realize that this may damage our economy when it is especially weak at this time. The bill that is passing does not affect that many businesses. I'm not sure how many it would affect. But it probably would affect one or two very large agricultural interests.

"But on the other hand, I feel that once this law is in place, it will spread out and encompass more and more businesses in the State. In fact, in its earlier permutation, the bill would have had a very broad impact.

"I'd like to cite an op. ed. that was inserted in the *Honolulu Advertiser* by Dean Okimoto, who is the head of the Farm Bureau and a very prominent Waimanalo farmer. On March 29th, he said:

"The bill [as introduced] in the State Legislature would have a broad impact. It would apply to workers covered by Hawaii Employment Relations Act, Chapter 377. In addition to most agricultural workers, it affects non-retail businesses with less than \$50,000 in annual sales. Retail businesses with less than \$500,000 in annual sales. Small non-profit organizations, daycare centers with less than \$250,000 in gross annual revenues, and hotels, motels, apartments and condominiums with less than \$500,000 in annual revenues. It also will impact taxi cab companies with less than \$500,000 in total annual revenues ..."

Representative Takumi rose to a point of order, stating:

"Mr. Speaker, a point of order. The current bill before us only applies to companies that gross more than \$5 million a year. The current speaker is clearly talking about businesses that make way, way less than \$5 million."

Representative Marumoto: "Are you speaking for the bill, Mr. ..."

The Chair addressed Representative Marumoto, stating:

"Representative Marumoto, can you confine your remarks to the substance of the bill."

Representative Marumoto continued, stating:

"Yes, I am referring to the bill before us as introduced by many of you here.

'It will also impact taxi cab companies with less than \$500,000 in total annual revenues. Law firms and legal aid programs with less than \$250,000 in gross annual revenue. Some art museums, and colleges, universities, and secondary schools with less than \$1 million in annual revenue.'

"So, this is a scary bill that we're starting. It's a foot in the door, and this process may spread to more and more companies, smaller firms, more than agricultural entities. Please be very careful of what we're doing here. I would urge you to vote 'no' and stop it right now. Thank you."

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

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

"Just in opposition. I talked to my grandmother about this bill, and she was a part of the ILWU for many years when they worked on the plantation, and many of my family members helped to come together, so they could at least have decent wages, and some benefits. But she was also very concerned about this bill. I want to repeat what was stated, I guess at First Crossover, by Senator McGovern about what he said about card check, and he's a passionate defender of unions.

"And he says: 'I'm sad to say it runs counter to the ideals that were once at the core of the labor movement. And instead of providing a voice for the unheard, card check risks silencing those who would speak.'"

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

"Thank you, Mr. Speaker. I rise in support. Yes, I wanted to clarify what the previous speaker spoke about when she mentioned the \$500,000. When you look at the bill on page 2 it clearly states, 'it's provided that the employee is employed by an employer with an annual gross revenue of more than \$5 million.'

"So, I do think for clarity that there might be a misunderstanding, and it does apply to the large employers, and not to the small ones of the State. Thank you."

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

"Mr. Speaker, I rise in opposition to this card check measure. Thank you. Mr. Speaker, the problem that I have with the card check measure is not necessarily who it actually applies to, whether you're a small business or a big business. I rise in strong opposition to this, because it effectively eliminates the secret ballot in union organizing elections. And I did want to also refer to, or if you could include my remarks from the Third Reading that I had said, and I have additional remarks here. Thank you.

"It cannot be emphasized enough. The secret ballot is the corner stone of our democracy. It gives the person the right to a personal, anonymous vote that is free from peer pressure, intimidation, or coercion. This is why we use it in all of our elections, and it is why it must be preserved in union organizing elections. A secret ballot prevents most ills, since no one knows how an employee will vote or voted, irrespective of signing a card. Conversely, a serious flaw in the public card check process is that it is inherently rife with the potential for intimidation, Mr. Speaker.

"Even the AFL CIO acknowledges the superiority of the secret ballot. It argued before the NLRB that secret ballot elections, 'provide the surest means of avoiding decisions which are the result of group pressure, and not individual choices.' Now, the AFL CIO made this quote to argue against decertification petitions, a process by which it is determined a union no longer represents a majority of the employees.

"I believe that if the secret ballot must be preserved to protect the integrity of the decertification election, then it must also be preserved to maintain the integrity of a certification election.

"So, Mr. Speaker, it's very clearly stated that the secret ballot is something that we should stick to, no matter if you're certifying a union or decertifying a union. It cannot be used to just say we want to favor one side or the other. Almost a week ago on this Floor, the investor Warren Buffet was brought up in a debate over tax increases. Mr. Buffet was praised for economic insight and beliefs, and he was used to help justify those tax increases. If Mr. Buffet's judgment on that issue should be listened to, then his opinions on card check should also be of great interest. He is opposed to card check.

"In a recent television interview, he stated, 'I think the secret ballot's pretty important in this county. You know, I'm against card check to make a perfectly flat statement.'

"I want to acknowledge that there are some issues in labor organizing that need to be looked at, but the answer to those issues is not elimination of the secret ballot. Let's do away with this radical measure and solve these and other issues, while still preserving the workers' right to cast a vote in private. Thank you."

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

"Thank you, Mr. Speaker. I rise in opposition. Two brief points, Mr. Speaker. One, for those of you who thought my colleague possibly misinterpreted the bill, if everyone would recall, that was what the bill began with. It morphed into the \$5 million and above. But the question is, what will it morph into next year? Will it go beyond what she has read, and what is all encompassing, everywhere, anytime, anyone to become a union. That's point number one."

"Point number two is, we should be aware, Mr. Speaker, that in the State of Hawaii, that the Congress, the federal government, and the Body there has put a slowdown or a check on the card check bill. The potential to slow the economy at this particular time cannot be overstated. And that's why I think Washington in its second thought after the great enthusiasm, they're saying, 'We better go slowly, and we better go surely.' Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In support. With regard to the secret ballot issue, and I know it sounds good, and there are many advantages to a secret ballot, but I think the point that's missed is the context of the secret ballot. If you look at the secret ballot that we use in State elections, for example, not only do you get to go into a voting booth and close the drape behind you, but the people who work at the school that you vote at, they're not allowed to try to influence your vote. They have to remain entirely neutral in the process, and if they don't, I believe it's a criminal offense. Likewise, you can't campaign within 500 feet of a polling place. Again, there's a criminal penalty for doing so.

"My point is that the secret ballot, in and of itself does not guarantee a fair election. It's the secret ballot, plus all these other methods that we use to keep things fair. The problem is that in a labor election, none of these other things are in place. And just like any other method, this can be manipulated if enough of the other safeguards are not available.

"So, when you have an election where one side gets to do all the campaigning. One side knows who the constituent group is. One side stands there by the secret ballot point and makes it clear to people going in that they're supposed to vote a certain way. And one side has all the advantages, it's no wonder that the secret ballot doesn't always work.

"What this bill tries to do in a very limited way, because the State just doesn't have very much jurisdiction over this issue, and even if you took all of the jurisdiction that we have, we would have very little. But because the final draft did have a \$5 million limit, it's just, I think, eight or nine companies are the only ones that are going to be affected by this. Opponents say, 'Well, what about next year?' Well, next year, even if we went all the way to the extreme line of our State jurisdiction, you would still only have about 15 companies affected by it. So it's a red herring to say that somehow we're going to go a long way from here. Now, if the federal government, if Congress does pass a card check law, now that's where the jurisdiction is, because that goes to the extent of interstate commerce, and that's almost everything.

"Also, I wanted to say that this is a compromise bill. There were provisions in earlier versions of this bill that were removed because I and others thought that they were too big a step to take at this time. For example, the final bill has penalties for unfair labor practices, for both employees and employers. Originally when it was introduced, they could only be applied against employers, and I and others didn't think that was fair. That's why we have what is very much a compromised position here. Thank you."

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

"Thank you, Mr. Speaker. Just in opposition, and I ask that the words of the Minority Leader be entered as my own. Thank you. Mr. Speaker, I too agree that labor unions started as a very important part of making sure our people, our children, child labor laws, a wonderful, honorable beginning. In all things, there is balance. Balance creates health. The thing is that this offsets balance. And right now, in a bad economy, I want to make sure we're back on our way to health.

"So, to me, the evidence is all around. If you want to look at Detroit, or if you want to look at parts of our State and hospitals. So, it affects all our people. No matter how many companies it is, it affects all our people. Again, balance. Thank you."

Representative Finnegan rose to respond, stating:

"Thank you, Mr. Speaker. Just a quick rebuttal to the Chair of Labor. Thank you. The way that I see this, in regards to a compromise on a secret ballot, it's like saying, 'Okay, well, I'm just going to close one eye while I watch you vote.' Thank you."

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

Representative Tokioka's written remarks are as follows:

"Thank you, Mr. Speaker, for allowing me to insert written remarks in opposition to HB 952. Mr. Speaker, I believe that taking away the rights to secret ballot forces the voter's hand, and that this measure could cause serious problems for small businesses. Finance Chair, Representative Marcus Oshiro and the Conference Committee worked extremely hard to come up with language to structuralize who will be adversely affected if this measure was enacted. Although HB 952 has gone through numerous changes, I still see this as a bad bill."

Representative Marumoto rose to respond, stating:

"Thank you, Mr. Speaker. Still in opposition. I didn't quite understand the Chair of Labor's remarks of talking about a secret ballot, or some other type of secret ballot. To me, a secret ballot is a secret one, and if it's not secret, it's not secret. So, I didn't quite understand what he meant.

"I thought I made it clear. The bill I was talking about was in the House Bill 952. And, Mr. Okimoto was referring to this same bill in an earlier form, as introduced by many members in this House. So, it covered a wide variety of firms in Hawaii, profit and non-profits. So it was very broad in scope. This is what I'm afraid of. In future years, we can always change it so that it will cover more entities and we will lose our secret ballot provisions, which protects us from intimidation from management and from labor. So, I warn you, this one is a real watershed bill, and I would be very careful with it. Thank you, very much."

Representative Rhoads rose to respond, stating:

"Mr. Speaker, still in support. The point I was trying to make about the secret ballot is that Saddam Hussein's Iraq had the secret ballot. It did not guarantee that the elections were fair. The Soviet Union had the secret ballot. Those elections weren't fair either. You have to have guarantees beyond just a secret ballot to be sure that things are fair.

"We're also comparing a labor election, which is very different from the kinds of elections that all of us are used to. Only one side really gets to campaign, and that is problematic. That's why card check is a fair way, and it's a fairer way than what we currently have. Thank you."

Representative Pine rose to respond, stating:

"Just a point of clarification. I just wanted to make sure that everyone knows that we're in the United States and that things are very different than with Saddam Hussein or in other countries. But, may I continue? In opposition.

"I think to claim that it only affects companies \$5 million or more is really irrelevant to the conversation, because it's really going to be those employees now that we're discriminating against and imposing this horrible law on them. Saying only one side gets to campaign is just not true. We're actually changing the law then to make only one side being able to campaign, and that's through card check, which is very intimidating. And so, I think we're really going on a slippery slope, and we're not helping the people of Hawaii in any way."

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

"I rise in support. Mr. Speaker, any time there's an organization of employees into a union, it's extremely emotional. It's very emotional for employees, as well as employers. One of the things that I like about this bill is now there is a penalty in there to address intimidation by either employee or employer. And it doesn't matter, again if it's secret ballot or card check. People seem so worried that somehow a secret ballot is not going to keep the emotions away and people feeling that they might be intimidated on the way to the secret ballot, or on the way to filling out a card check.

"This law is not going to stop the emotions. It's not going to stop how strongly people feel about having a union or not having a union. But the thing the bill does is it gives our working class, our working people the ability to organize if they feel like they want a union. It gives them a way, another option to create that union. Thank you."

Representative Ward rose to respond, stating:

"Mr. Speaker, just a brief historical footnote. After working five years in the Office of Democracy of USAID. Eastern Europe in the Soviet Union did not have a secret ballot. You were punished if you didn't show up, and you were punished if you didn't vote the correct person. I think it's a distortion of what the secret ballot is by using those examples. Thank you."

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

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

"Mr. Speaker, I rise to speak in favor of House Bill No. 952, House Draft 1, Senate Draft 2, Conference Draft 1, Relating to Labor.

"This bill establishes an alternative method for employees to certify a representative for collective bargaining. This alternative method allows a majority of employees within a unit appropriate for bargaining to sign valid authorizations designating an individual or organization to represent them. If the Hawaii State Labor Relations Board determines that a majority of the employees have signed valid authorizations, and that no other individual or labor organization is currently certified or recognized as the exclusive representative, then the Board would be required to certify the individual or labor organization.

"The bill also establishes procedures to facilitate the initial collective bargaining of the newly certified representative and the employer.

"Furthermore, the bill stipulates that the sections establishing the alternative method of certification apply to an "employee" defined in Section 377-1, Hawaii Revised Statutes, who "is employed by an employer with an annual gross revenue of more than \$5,000,000."

"The definition of "employee" in Section 377-1, Hawaii Revised Statutes, is already very narrow. Among other things, the statute provides that "employee":

... shall not include . . . any individual subject to the jurisdiction of the Federal Railway Labor Act or the National Labor Relations Act, as amended from time to time. . ."

"The National Labor Relations Act specifically excludes agricultural workers. As such, by definition, agricultural workers would fit this

definition, and this bill would apply to them. The same can be said for railway workers.

"The definition further adds that "employee":

". . . includes any individual subject to the jurisdiction of the National Labor Relations Act, as amended from time to time, but over whom the National Labor Relations Board has declined to exercise jurisdiction or has indicated by its decisions and policies that it will not assume jurisdiction."

"This portion of the definition creates uncertainty since it is unclear how the National Labor Relations Board will act in the future.

"The bill further narrows the application of this bill by stipulating that of those employees who fit within the definition of "employee", this bill will apply to an employee who is "employed by an employer with a gross revenue of more than \$5,000,000." According to latest census, there are only eight (8) farms with sales exceeding \$5,000,000 with operations in the State of Hawaii, of which four employ more than 100 employees each.

"Mr. Speaker, it can't be overemphasized that this bill does not do away with the "secret ballot" procedure. Because this bill provides an alternative method for certification applicable to only those employees employed by employers with a gross revenue of more than \$5,000,000, the "secret ballot" procedure will still be required for all other businesses that fit within the parameters of the "employee" definition.

"For these reasons, I respectfully urge my colleagues to support this bill. Thank you."

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

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I strongly support HB 952, H.D. 1, S.D. 2, C.D. 1 which symbolically levels the playing field for workers who want to form a union so that they can collectively bargain with their employers over the terms and conditions of their employment. It's symbolically because the Conference draft limits the effect of the bill on relatively few operations in the islands. Rather than a particular number of employees, the bill will cover any employer with annual revenues of \$5 million or more. The National Labor Relations Act controls most of this area and only a national counterpart of this bill will change the process for union building for most companies in Hawaii.

"Let's be clear that this bill only adds an option for workers; it doesn't change the existing process which allows calling a certification vote by ballot. This present bill, commonly referred to as "card check" bill, will provide an alternative and streamlined certification of a labor organization to represent employees in accordance with signed valid authorizations by a majority of employees where no other representatives are certified as the exclusive bargaining representative. It also establishes a mandatory procedure for facilitating an initial collective bargaining agreement.

"But the fundamental issue in this debate is the employee's right to join a union, as guaranteed by federal and State law and affirmed by Hawaii's State Constitution. The basic intent of this bill is to facilitate the process for workers to join a union. Under current laws and regulation, the employees' desire to join or organize a union is difficult. The employer has the tools and wherewithal to stymie efforts by employees to unionize the workplace.

"Opponents of the bill continually harp on the sanctity of a "secret ballot" that takes place after a union has crossed the initial threshold to call for such secret election. But a secret ballot does not guarantee democracy as numerous unfair labor practice charges filed and won by unions throughout the country and in Hawaii will attest. Employers have an inherent advantage over those who want to organize. Employers control the livelihood of the workers and have ultimate power over the worker's job. Employers can exert subtle or even overt pressure to an employee

who is inclined to join a union. The union has no such power to intimidate or coerce. Therefore, there is no level playing field in the current system.

"Those opposed to this bill claim that the union will coerce workers into signing cards. The statistics belie this argument. Academician and labor relations expert Gordon Lafer of the University of Oregon pointed out that in 60 years, only 42 cases *throughout the country* have ruled against unions for any type of coercive behavior compared with the hundreds of cases where employers have been found to have committed unfair labor practices.

"I feel compelled to respond to an argument raised by the State Department of Labor and Industrial Relations ("DLIR"). DLIR argues that workers, especially agricultural workers who do not have English as their first language, will not understand the difference between signing a card and voting in an election. This is a misconception based on plain stereotyping of immigrant workers prevalent in the agriculture industry. Most unions employ organizers who speak the language of the employees, or at least get a co-worker who is bilingual to explain the process to the non-English speaking employee. Moreover, the employees themselves know about their working conditions, their pay, and the benefits they may or may not receive, and they themselves know without the benefit of translation if they want a better workplace or not.

"The Senate draft added teeth to the original House language by providing civil penalties imposed on employers who willfully or repeatedly commit unfair or prohibited practices that interfere with the statutory rights of employees or discriminate against employees for the exercise of protected conduct. This provision is necessary to ensure that employers will not rely on what is common practice in the current system, where delay tactics with little or no risks in the event the employers do not prevail are often used to thwart organizing efforts. The civil penalty was reduced from \$20,000 per violation contained in the Senate draft to \$10,000 in the Conference version and will apply to employee as well as employer violations. The compromise reached in the Conference Committee strikes a fair and reasonable balance to impose a substantial fine for willful violation of the law.

"For all of these reasons, I support this measure and I ask my colleagues to join me in voting in favor of its passage."

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

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

"Mr. Speaker, I rise in support of HB952 HD1 SD2 CD1.

"With the federal stimulus package underway, we need to focus on the rebuilding of our economy. Unions are one of the best tools for creating an economy that works for everyone.

"There is a disturbing trend in the country that has led to the erosion of health care coverage and pension security—coupled with rising food costs and foreclosure anxiety, a stable workforce is a formidable goal, and working people are bearing the brunt of today's troubled economy.

"Across the country, union membership has decreased, partly due to an election process that vests the majority of power in the employer and often opens the door to intimidation and threat of job loss.

"The Employee Free Choice Act is a way to restore a fair and equitable process for employers and employees, rebuild the labor unions, and in turn rebuild the middle class.

"The majority sign up process is not new. In fact a number of major companies such as AT&T Wireless and Kaiser Permanente have long recognized that it is a fairer, less disruptive process to determine workers' will. It simply provides workers with another option to express their desire to self-organize.

"The growing inequality we see between employer and employee is a backward trend. It will take more than economic stimulus to address this.

"This bill applies only to companies with annual gross revenues of \$5 million or more. If passed, it will level the playing field by restoring employee's choice to form unions and bargain for fair wages and benefits."

Representative Marumoto rose, stating:

"Mr. Speaker, before we vote, may I request that on the 'card check' bill, Conference Committee Report 115, that Mr. Okimoto's entire article be inserted into the Journal in its entirety. Thank you," and the Chair, "so ordered."

Representative Marumoto submitted the following editorial:

"March 29, 2009
New economy calls for more flexibility
Con: Union do's and don'ts

By Dean Okimoto

The Hawaii Farm Bureau Federation recognizes the role unions and union workers have played in Hawaii and the support they have given to our agriculture industry. At the same time, everyone must recognize that the world economy has changed and agriculture is changing with it. To compete in the global economy, Hawaii's agriculture industry needs dynamic companies, innovative farmers and flexible workers who can adapt quickly to changes in the market. That's why it's disturbing to see legislation, referred to as "card check," pending in the Hawaii Legislature and in the U.S. Congress.

The major benefit of a union is to improve the plight of the worker. Hawaii's low unemployment rate means that employers are competing for a limited workforce. According to the Hawaii Department of Agriculture, the average wage paid for the period of Jan. 11-17, 2009, was \$12.69 per hour in Hawaii. This compares to \$11.16 per hour in California and \$10.93 per hour nationally (excluding Alaska).

Our farmers and ranchers often compete against other economic sectors for their workers and pay higher salaries and benefits to not only get but to retain workers. Hawaii's prepaid medical laws provide benefits to workers that may not be the norm in other areas of the country.

According to The Chamber of Commerce of Hawaii, a recent national survey showed that three out of four voters (74 percent) oppose the "The Employee Free Choice Act"; 74 percent of union households also strongly oppose the measure.

The bill in the state Legislature would have a broad impact. It would apply to workers covered by the Hawaii Employment Relations Act, Chapter 377.

In addition to most agricultural workers, it affects non-retail businesses with less than \$50,000 in annual sales; retail businesses with less than \$500,000 in annual sales; small nonprofit organizations; daycare centers with less than \$250,000 in gross annual revenues; and hotels, motels, apartments and condominiums with less than \$500,000 in annual revenues. It also will impact taxicab companies with less than \$500,000 in total annual revenues; law firms and legal-aid programs with less than \$250,000 in gross annual revenue; some art museums; and colleges, universities, and secondary schools with less than \$1 million in annual revenue.

Agriculture in Hawaii is already at a competitive disadvantage due to the cost and availability of land and water, transportation costs, and the impact of invasive species. Worker productivity is key to viability.

If passed, this bill will stall our efforts to become more self-sufficient in food production and will lessen opportunities for agricultural workers. Technology is changing rapidly and workers must be able to do different tasks at different times and in different ways without having to check in with a supervisor or union boss. The days of extensive labor-intensive operations are gone — maximum productivity equals mechanization, and automation involving skill sets that require continuous learning.

The only common element at farms large and small across the state today is diversity. Although some of the seed companies in Hawaii today approach the size of what were our smaller sugar cane and pineapple operations, these companies and their workers are highly flexible and must remain so to compete.

We must empower Hawaii's workers by giving them the training they need to help grow the agricultural industry in our state. Unions can have a seat at the table as we discuss the way forward, but the traditional union model can't be part of the deal. I know what we are suggesting is difficult. But all of us in the business world are making difficult decisions. We need to set the stage for the new tomorrow.

The future of Hawaii's agriculture industry is in question and the card check measure will thwart the progress we've made. Legislators should oppose this bill so that agriculture can continue to evolve into a strong, sustainable industry for Hawaii's future.

Dean Okimoto is the president of the Hawaii Farm Bureau Federation. He wrote this commentary for The Advertiser. Jim Tollefson, president and CEO of The Chamber of Commerce of Hawaii, contributed to this commentary.

The Honolulu Advertiser"

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 952, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO LABOR," passed Final Reading by a vote of 39 ayes to 10 noes, with Representatives Berg, Ching, Coffman, Finnegan, Har, Marumoto, Pine, Thielen, Tokioka and Ward voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 116 and H.B. No. 981, HD 2, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 981, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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 rise in strong support for Conference Committee Report No. 116, House Bill 981, House Draft 2, Senate Draft 2, Conference Draft 1, Relating to Highway Safety. As this Body recalls, we passed Act 171 in the 2008 legislative session to implement the framework for the ignition interlock device to combat the problem of drunk driving in the State of Hawaii. Act 171 further created the Ignition Interlock Implementation Task Force, which developed recommendations for the implementation of ignition interlock. This bill implements recommendations of the taskforce. The Ignition Interlock Task Force was comprised of an inclusive group of stakeholders including, but not limited to the Department of Transportation, the Department of Health, the Department of the Attorney General, the Judiciary District Court, the police departments from each county, the Office of the Public Defender, the City & County of Honolulu Department of Motor Vehicles, the County of Maui Department of Motor Vehicles, the University of Hawaii, Mothers Against Drunk Driving (MADD), the Office of the Prosecuting Attorney from each county, the Administrative Driver's License Revocation Office, and the legislature.

While there were differing House and Senate positions on various portions of this bill, the Conference Committee was able to reach consensus and the final version of the bill includes several important points necessary for the implementation of the ignition interlock program.

"This measure will, among other things, make mandatory installation of the ignition interlock for all drunk drivers, including first-time offenders. This bill will require installation of an ignition interlock device on any vehicle operated by the person, with the cost of installation, maintenance, and calibration paid for by the offender, with the exception of those below 125% of the official poverty line, for whom the cost of installation would be covered by an ignition interlock fund. In addition, there will be a requirement for community service work, prison time, and a fine. Among

other things, this bill will authorize the Director of Transportation to create and promulgate rules for the implementation of the ignition interlock program, require the Director of Transportation to select a single vendor to install and maintain ignition interlock devices, and eliminate the provision allowing for emergency override of the ignition interlock system. It also reestablishes the "look back period" at five years rather than ten years and amends various periods of administrative revocation of license and privilege to operate a vehicle, based on the number of prior alcohol or drug enforcement contacts. This measure will provide penalties for people who fail to install an ignition interlock device during the revocation period, reestablish the maximum prison time at five days for a first or second offense, eliminate different administrative revocation and criminal sentencing provisions for highly intoxicated drivers, establish an absolute prohibition from driving while on probation if the person does not have a vehicle in which an ignition interlock device can be installed, eliminate the provision limiting the admissibility of the refusal to submit to a test of a person's breath or blood for legally arrested individuals under the age of 21, and establish mandatory terms of probation for repeat OVUI offenders. This bill also extends the taskforce until July 2011.

"While certain recommendations of the task force were not adopted such as setting the refusal to submit to a chemical test as a petty misdemeanor or setting the look back period for repeat offenders set at ten years, other amendments such as giving the director the authority to promulgate rules to enact the interlock program will make the bill better.

"What our state needs is a change of mentality towards drunk driving. Among other things, we must be individually responsible by drinking within limit and urge others to drink responsibly. We also need ignition interlock to change the mentality towards drinking and driving. I thank all members for support of this bill, and commend my colleagues in the House and Senate for their dedicated effort to make this bill happen. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 981, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 121 and H.B. No. 1525, HD 1, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1525, HD 1, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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:

"I rise to speak in strong support of HB 1525, which relates to the awarding of Medicaid contracts by the Department of Human Services to both non-profit and for-profit insurance entities. As the introducer of a related bill, I speak with great concern on behalf of my many Wai'anae Coast constituents who have long depended on services offered by a non-profit health center through a locally-owned non-profit insurance plan.

"With the awarding of contracts to two for-profit companies—relatively unknown in Hawaii and with questionable performance nationally—I fear that my constituents will lose the culturally sensitive care they have become accustomed to; and I have a greater fear that in this current economic crisis some will be left with no healthcare at all.

"When the bill was first heard, it received strong and supportive testimony from community-oriented agencies and individuals. Opposing testimony came from for-profit entities beholden to stockholders. Objections to the bill also came from state agencies, expressing concern that it would stifle competition and deny competitors a "level playing field" ... yet a non-profit that has regularly underbid other plans submitted a bid to DHS for the QEXa program that was returned unopened. So much for level playing fields!

"I believe there is room in Hawaii's healthcare arena for providers and health plans of every description—non-profit and for-profit alike. For this reason, I regard the CD1 version of this bill as an improvement over the original draft which recognized only non-profits. This bill, by requiring stringent and detailed reporting requirements for all Medicaid insurance plan contracts, will ensure that the people of Hawaii are receiving quality care at a fair price from all healthcare providers.

"I urge my colleagues to join me in supporting this bill."

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

"Mr. Speaker, I rise in support of this measure. Thank you very much, I appreciate it. If there is one word that can describe this bill, it would be, 'transparency.' It makes common sense to have transparency when we review information, which will help determine the qualifications of entities, which we may be awarding a Medicaid contract to, maybe in the amount of a billion dollars or so.

"Case in point. On February 1, 2008, the State of Hawaii awarded a \$1.5 billion contract. This is its largest Medicaid contract ever. There were two Mainland for-profit health plans. This is Unitedhealth, parent company of Evercare, they're doing business in Hawaii, and WellCare, which is the parent company of Ohana Health Plan doing business in Hawaii.

"This \$1.5 billion Medicaid contract is to cover 37,000 aged, blind, and disabled citizens in the State of Hawaii. And, I had a big concern about this from the get-go. At one of the informational briefings, when we were talking about some of the concerns we had with those two companies, the Department of Human Services' administrator made a statement that which I thought was quite shocking. He said, 'it doesn't matter what happened on the Mainland.' He was talking about the civil and criminal actions and settlements that were going on with these two companies.

"On February 19th, 2009, the United States Senators for Medicare and Medicaid Services prohibited WellCare from enrolling new members in its Medicare health plan and prescription drug plan in all 50 states. CMS stated that the sanctions are a result of WellCare's, 'longstanding and persistent failure to comply in its rating as one of the overall worst performers among all plans.' CMS also accuses WellCare's agents of misleading beneficiaries and misrepresenting WellCare plans at sales events in December of 2008, and failing to discover forged applications through its own monitoring system.

"When we talk about United Health, I'm a little concerned about that company also. On January 15 of 2009, United Health agreed to \$350 million to settle three class action lawsuits filed by physicians and health plan members, because they were understating reimbursements by as much as 20% in some of the cases over the last 10 years. In fact, New York State Attorney General Andrew Cuomo stated, 'With this agreement, the tide is turning against the corrupt reimbursement system that took hundreds of millions of dollars from the pockets of patients nationwide.'

"Again, that quote that I heard from that administrator from DHS, 'It doesn't matter what happened on the Mainland.' I completely disagree with that. I could not understand what he was talking about. We need to improve patient care. In order to do this, we need transparency to review information, and to determine the qualifications of business entities before we reward billion-dollar-plus Medicaid contracts.

"Mr. Speaker, I wanted to share with you a conversation I had with the Ohana Health executive director. He gave me a call yesterday and it actually wasn't on this bill, House Bill 1525. I was on something else. But after a few minutes, I asked him about this measure, and to my pleasant surprise, he stated to me that if it was important to have transparency, and if this would help the people of Hawaii trust his company, and reduce the fear of doing business with Ohana Health, then he's okay with this measure. He stated that his goal was to provide healthcare to his clients. I think that's a good start. I really do.

"I anticipate there may be some Members that may have opposition to this measure and I welcome your comments, and I welcome you to call the executive director if you'd like to, because he's okay with this measure, and I have his card here. So, if you want to meet me at recess, I'd be happy to give you his number.

"But again, I think this measure is very important, as it deals with transparency, and it provides us with a better guide to make the proper decisions. Thank you, Mr. Speaker."

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

"Mr. Speaker, I just wanted to stand up in support of the bill. I'm not sure who's going to go against the bill, but I will support it."

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

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support to H.B. 1525 – Relating to Medicaid. This bill requires the Department of Human Services to include specified reporting requirements in all Medicaid healthcare insurance plan contracts. Faith Action for Community Equality stated, 'This bill will ensure that these for-profits will operate in our culture and allow transparency of their business practices and that of their home corporate offices that operate outside of our oversight on the mainland US.'

"I am in support of the transparency of this bill ensuring that the procurement of all Medicaid contracts in the State, DHS shall solicit proposals only from nonprofit insurance entities and award contracts only to nonprofit insurance entities. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1525, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAID," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 124 and H.B. No. 1692, HD 2, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1692, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, I would like a 'no' vote, and I have some brief comments. Mr. Speaker, our State Constitution protects people from being denied housing based on familial status. I'm concerned that this bill may discriminate against families with children, since other classes of people are protected from the five-year time limit.

"But, the larger concern is that the State has not invested adequately in low-cost housing to ensure that tenants are able to transition out of public housing. The other day, I was at McDonald's in Waianae, and the cashier pleaded with me to help her extend her two year time limit at the Ohana Ola O Kahumana transitional shelter. She works full time, has young children, and has been a good tenant. But she said that she's searched high and low for a rental that she can afford, but a McDonald's salary is just not enough. I have heard this over and over again from tenants and from people who work at transitional and emergency shelters, that unfortunately there is nowhere for tenants to transition to once their time limits are up.

"My research revealed that most emergency and transitional shelters cannot achieve their time limits due to federal funding restrictions. So, these tenants will most likely end up on our streets and the beaches. This bill would place public housing tenants in the same predicament as those who are in emergency and transitional shelters.

"I understand the concern that the waiting list is long, and that there are some 'bad eggs' in public housing. But, we should not punish people like

that McDonald's cashier; people who are working and doing everything they can, but they simply cannot afford rent in today's housing market. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1692, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," passed Final Reading by a vote of 46 ayes to 3 noes, with Representatives Belatti, Manahan and Shimabukuro voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 125 and H.B. No. 1809, HD 2, SD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1809, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO RECYCLING," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

At 2:48 o'clock p.m., the Chair noted that the following bills passed Final Reading:

H.B. No. 1536, HD 2, SD 1, CD 1
 H.B. No. 1550, HD 2, SD 1, CD 1
 H.B. No. 952, HD 1, SD 2, CD 1
 H.B. No. 981, HD 2, SD 2, CD 1
 H.B. No. 1525, HD 1, SD 2, CD 1
 H.B. No. 1692, HD 2, SD 2, CD 1
 H.B. No. 1809, HD 2, SD 1, CD 1

At 2:49 o'clock p.m. Representative Say requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 2:49 o'clock p.m.

Conf. Com. Rep. No. 128 and H.B. No. 986, HD 1, SD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 986, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, thank you. Mr. Speaker, I rise in strong support of House Bill 986. This bill requires the construction and renovation of public school facilities to meet the collaborative or high performance school standards. The bill also requires replacement of old portable buildings with high performance classrooms, and also requires a prioritization of public school facilities projects that are in accord with certain criteria.

"This is something that is long overdue. It's a great measure, and a great idea. DBEDT has been working since at least 2005 with DOE and other State agencies to lead by example in the implementation of energy efficiency in high performance buildings in our State. DBEDT developed the Hawaii High Performance School Guidelines for energy efficiency, improvements to many major renovations of schools in Hawaii.

"The DOE currently uses these guidelines in designs for all new school facilities to meet the requirements of Leadership in Energy and Environmental Design, LEED, silver. This bill would extend and expand the State's commitment to high performance buildings, by requiring buildings that are undergoing repair or maintenance to meet the CHPS rating system criteria. The CHPS mission is to facilitate the design, construction, and operation of high performance schools. Environments that are not only an energy and resource efficient, but also healthy, comfortable, more lit, and containing the amenities for a quality education. CHPS helps facilitate and inspire change, positive change in our educational system.

"These changes will hopefully increase student performance with better design, healthier facilities, raise awareness of the impact and advantages of

high performance schools, provide professionals with better tools to facilitate effective design, construction, and maintenance of high performance schools. It will increase school energy and resource efficiency, and reduce peak electric loads.

"So, Mr. Speaker, I thank you for allowing me to rise in support of this very important measure. Thank you."

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

"Thank you, Mr. Speaker. I just have short comments in support. Thank you. Actually, I want to do a positive plug for the Charter Schools in regards to public schools, as we try to move the Department of Education into high performance school standards in regards to energy efficiency and technology, that we're starting to see some really remarkable things happening in some of the Charter Schools.

"For example, Waimea has an LEED building, a green building that they have just built. We have another school that's totally 'off the grid.' And we have another school that has their building through a public-private partnership that is, I forget what the wording is, but is solar, and they're just doing really magnificently, without needing legislation to head in this direction.

"So, I just thought that that would be a good, positive thing to say about public schools having energy efficiency type of buildings. 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 strong support. The costs of utilities are rising and facilities are in need of repair. This measure helps to address these challenges. Energy efficiency and environmental standards in our public schools is a common sense approach that is long overdue. The location of many public schools makes them a reasonable and convenient place at the heart of our communities' renewable energy initiative. We need to take advantage of their large spaces on campuses that could provide for such technologies as solar, wind, and ocean energy.

"Coincidentally leaders in my community have requested that I introduce a measure such as this. I would like to commend the representative from Kauai for drafting this measure in which I had the honor of signing onto. Thank you, Mr. Speaker."

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

Representative Morita's written remarks are as follows:

"Mr. Speaker, I rise in strong support of this House Majority Package bill. While we all know that an investment in public education reaps huge benefits for us as a society, the environment in which our children learn can be an important factor in contributing to our children's educational success. The premise of this bill is very simple, if we make the right kinds of design and material choices in the construction or repair and maintenance of schools, including portable buildings, we not only provide an excellent learning environmental but we can save money too.

"This bill will require public school projects to meet the Collaborative for High Performance Schools (CHPS) rating system. The mission of the CHPS is to facilitate the design, construction and operation of high performance schools: environments that are not only energy and resource efficient, but also healthy, comfortable, well lit, and containing the amenities for a quality education. Secondly, this bill pushes the envelope in promoting energy efficiency by requiring 40% less energy demands compared to the International Energy Conservation Code. By designing to these standards it is anticipated that this type of design and construction will result in a 25% lower life-cycle cost than a traditionally designed building. These are real savings that can be put back into the classroom instead.

"Mr. Speaker, I was shocked to learn that in our public school system we have 677 portable classrooms that are between 20 and 30 years old, 567 that are between 30 and 40 years old and 436 that are over 40 years old. These buildings will need to be replaced or repaired in the near future and this bill will help to raise the bar in the design and construction of these buildings.

"Lastly, Mr. Speaker, while we anticipate passage of this bill this afternoon, Congress is discussing legislation to make huge investments in the "greening" of our schools. By adopting these kinds of aggressive building standards for our public schools, it will signal to our federal partners our commitment to invest in Hawaii's clean energy future to greatly benefit our children.

"I ask for my colleagues support for this very important Majority Package bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 986, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SCHOOL FACILITIES," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 129 and H.B. No. 1378, HD 2, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1378, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"I rise in opposition of House Bill 1378. Mr. Speaker, the intent of this measure is very good, however this bill would allow advanced practice registered nurses to open clinics as primary care providers and expand their medical authority without any physician oversight. Under joint and several liability, physicians will face greater liability costs.

"Earlier this Legislative Session, we had a number of bills aimed at reducing liability costs for Hawaii's physicians by adjusting our tort laws, creating incentives to reduce liability insurance costs, and informing the task force to implement a state-wide health information technology system to reduce errors and omissions. All these measures had great discussion however they are not before us today.

"I oppose this measure because it will take us in the opposite direction by increasing the liability costs for our physicians. Thank you. I also ask for written comments in the Journal. Thank you."

Representative Karamatsu's written remarks are as follows:

"Mr. Speaker, I rise in opposition of House Bill 1378, House Draft 2, Senate Draft 2, Conference Draft 1.

"This bill would allow Advanced Practice Registered Nurses to open clinics as primary care providers and expand their medical authority without any physician oversight. Under joint and several liability, physicians will face greater liability costs. Earlier this Legislative Session, we had a number of bills aimed at reducing liability costs for Hawaii's physicians by adjusting our tort laws, creating incentives to reduce liability insurance costs, and forming a taskforce to implement a statewide health information technology system to reduce errors and omissions, all of which had a great discussion, but are not before us today. I oppose this measure because it will take us in the opposite direction by increasing the liability costs for our physicians.

"Thank you."

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

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

"I ask for a ruling on a potential conflict. My husband is a medical doctor and care provider," and the Chair ruled, "no conflict."

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

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

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

"Mr. Speaker, I'd like to speak in support of the measure. Before I speak, I must declare that I may have a potential conflict. I've been a registered nurse for almost 40 years," and the Chair ruled, "no conflict."

Representative M. Lee continued, stating:

"Thank you. Members, we have been moving steadily, relentlessly toward more autonomy and responsibility, advancing ever more boldly in the last few years, into territory previously controlled by physicians. The issue is whether nurses with advanced training should be allowed to deliver primary healthcare on their own. Primary healthcare refers to the first contact a patient has with the healthcare system. It's the basic initial care that you receive when visiting a clinic or a doctor's office, the care you get before being referred, if necessary, to a specialist.

"If you didn't know it, registered nurses have been delivering this kind of care for decades. In recent years, however, nurses with advanced training, such as nurse practitioners and nurse midwives have been moving toward greater independence. This has occurred as the country has experienced a growing shortage of primary care physicians. In many states, including New York, nurse practitioners are allowed to write prescriptions and be reimbursed by third-party insurers.

"A growing number of Health Maintenance Organizations are using nurses as primary care providers, and some nurse practitioners are going into practice on their own.

"Mr. Speaker, as long as nurses were working for doctors, there wasn't much of a problem. The nurses lighten the workload, and they help bolster profits. For routine visits, the doctor told the patient, in effect to, 'See the nurse, and then have your insurance company send me a check.'

"Recent discussions on healthcare reform packages emphasizing primary care have added considerable weight to the move toward greater responsibility for advance practice nurses.

"Unfortunately, the American Medical Association has criticized virtually every argument on behalf of greater autonomy for nurses. The AMA even rejected the idea that nursing care is less expensive than physician care. There is no convincing evidence that nurses are more cost effective healthcare providers, was one of their contentions. This is particularly interesting when you consider that the average income for doctors last year was \$170,600. But for nurse practitioners it was \$43,600.

"But the cornerstone of the doctors' argument is that nurses acting independently would be a threat to the health of their patients. There does not seem to be any evidence at all for that argument. Mary Munding, who is the Dean of the Columbia University School of Nursing noted nurse practitioners have been delivering primary care since 1965, and that hundreds of studies have examined the quality of their work, including their diagnostic ability and management effectiveness. There's not a single study that shows any lapses, said Ms. Munding, and most of the studies had been done by physicians. When asked if any studies had shown any problems with the quality of care delivered by advance practice nurses, Dr. Lonnie Bristow, former AMA chairman said, 'No, certainly not. In fact, we believe the quality of care is quite good.'

"With healthcare costs creating economic havoc, it is not likely that doctors or anyone else will be able to slow the movement toward greater

independence for advance-practice nurses. If nurses with special training are delivering high quality care at a reasonable cost, then we need a reason other than doctor's anxiety to stop them.

"The argument being made by the Representative from Waipahu are the same old tired arguments I've heard since 1965. This year, our Legislature has made fantastic progress in improving access to care to patients in rural areas and underserved communities. We've heard for several years the need to increase the supply of primary care practitioners. Through this bill, HB No. 1378, the Physician Assistant Bill, the bill which will allow a collection of data regarding the numbers of physicians serving our islands are beginning to make a dent in the primary care shortage. Let's not let the 'scope of practice' bugaboo keep us from doing the right thing.

"I urge the Members to support this. Dieticians, physical therapists, occupational therapists, social workers, and others work alongside of physicians, and we don't worry they are going to cause liability for the physicians. We just passed a bill, and we didn't even take it off of the Consent Calendar, which gives Physician's Assistants the right to practice independently. The right to practice independently. And now we're criticizing this bill.

"There will be a two-year report by the Insurance Commissioner on how well this new law is going. Any problem can be taken care of then. I urge the Members' support."

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

"Thank you, Mr. Speaker. In very strong support. At Ka'u Hospital, for example, an APRN drives 60 miles, five days a week from Hilo to cover a full shift. Without her, we would be without that care. In a lot of the rural areas, we would welcome more APRNs because without them, my people would be self-medicating, and that's not good."

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

"Thank you, Mr. Speaker. In strong support, and I would like to adopt the words from the Representative from Mililani as my own. Thank you," and the Chair "so ordered." (By reference only.)

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

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

"Thank you, Mr. Speaker. I rise in strong support of House Bill 1378, Conference Draft 1. Thank you. Before anyone suggests that I might also have a conflict of interest, I'd like to disclose that my husband is a registered nurse. Not an advanced practice registered nurse, but a registered nurse," and the Chair ruled, "no conflict."

Representative Belatti continued, stating:

"Thank you, Mr. Speaker. This bill directly addresses the lack of access to healthcare in our rural communities by removing barriers and enhancing the full use of APRNs in the private primary healthcare sector.

"As we learned during this bill's movement through the legislative process, there are numerous studies and professional experiences documented that demonstrate that care by APRNs is safe, effective and well accepted by consumers. This Body is well aware of the shortage of doctors and healthcare workers throughout the State. But, this is not simply a problem faced here by the State. It's faced nationally.

"In a recent *New York Times* article, the headline reads, 'Shortage of Doctors an Obstacle to Obama Goals.' The article proceeds to say that it's not simply a shortage of doctors. It's a shortage of primary care doctors. At the national level, the solutions that people are looking at include increasing enrollment in medical schools and residency training programs, expanding the National Health Service Corps, which would deploy doctors and nurses in rural areas in poor neighborhoods, increasing the Medicare reimbursement system to favor primary care doctors, some say to the

detriment of specialists. And a fourth solution is encouraging the greater use of nurse practitioners and physician assistants.

"During these times when we cannot raise and increase the Medicaid reimbursement rate when the federal government is struggling to increase the Medicare reimbursements for primary care doctors, which is causing huge debates among the medical community, and in fact causing a split between primary doctors and specialist, I think that this proposal that enables us to take more advantage of the skills and expertise of APRNs is a revenue neutral bill that enables us to address the very real needs of people in the rural communities.

"So, for those reasons, Mr. Speaker, I ask this Body to support House Bill 1378. Thank you."

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

"I'd like to request a ruling on a potential conflict. My better half is a registered nurse. Thank you," and the Chair ruled, "no conflict."

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

"Mr. Speaker, I also rise for a ruling of a possible conflict. I'm a registered nurse," and the Chair ruled, "no conflict."

Representative Cabanilla continued in support of the measure, stating:

"And I'd like to add a few comments, short comments in support. I just would like to say that this bill will be a monumental statement for the recognition, a long-deserved recognition for APRNs; for their service, their profession, as well as to the community. Thank you."

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

"Mr. Speaker, in support. Thank you. I think one of the concerns that seems to be sort of implied here is that somehow APRNs won't know what to do if something comes up that is too complicated for them. That they're going to mess it up somehow.

"I would just say that a General Practitioner has the same kind of problem every time he treats a patient. If for some reason the illness is unusual or particularly complicated, the general practitioner has to use their best judgment to say, 'You know what? I don't know what do here. I'm going to refer you to a specialist,' and probably everyone in this room has been referred to a specialist for that very reason at one time or another.

"There's no reason that APRNs can't do the same thing when they realize that something's outside their knowledge, or they're not comfortable with treating it, they'll do like GPs do and refer the patient to a specialist. Mahalo."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1378, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ADVANCED PRACTICE REGISTERED NURSES," passed Final Reading by a vote of 38 ayes to 11 noes, with Representatives Chang, Ching, Finnegan, Ito, Karamatsu, Marumoto, McKelvey, Pine, Sagum, Thielen and Ward voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 131 and S.B. No. 1058, SD 2, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1058, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

Representative Marumoto's written remarks are as follows:

"I rise to speak in favor of SB 1058 SD2 HD2 CD1. Part II of the bill calls for a task force within the Department of Public Safety to review the effects of salvia divinorum and its primary psychoactive ingredient, salvinorin A and recommend appropriate legislation to address the sale and use of it in Hawaii.

"Countries in which there is some form of control include: Australia, Belgium, Denmark, Estonia, Finland, Germany, Italy, Spain, and Sweden. In the U.S., Louisiana, Missouri, Tennessee, Ohio, Oklahoma, Delaware, Illinois, and North Dakota have so far passed laws prohibiting salvia divinorum. Louisiana has provisions that allow possession of the plant when it is not intended for human consumption and in Oklahoma natural strength salvia divinorum is legal - only extract-enhanced leaves are prohibited. Maine has passed a bill to prohibit sale to minors only, effectively approving its use for adults.

"While all the effects of salvia are still unknown, it is clear that use of the drug is growing in popularity. Abusers typically experience vivid hallucinations. High doses of the drug can cause unconsciousness and short term memory loss. Anecdotal information provided by abusers of the drug suggests that the long term effects may be similar to that of other hallucinogens such as LSD, including depression and schizophrenia.

"Salvia looks like a simple house plant without any distinguishing characteristics or smells. The drug can be either smoked or eaten and usually takes effect within 30 seconds, with strong highs that last between 30 minutes to one hour. It is currently available legally to all ages for about \$75/oz. at head shops.

"A taskforce would be a prudent step to determine the depth of the problem of salvia use and to evaluate the necessity of regulating it."

The motion was put to vote by the Chair and carried, and report of the Committee was adopted and S.B. No. 1058, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES," passed Final Reading by a vote of 48 ayes to 1 no, with Representative Finnegan voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 132 and S.B. No. 199, SD 1, HD 1, CD 2:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 199, SD 1, HD 1, CD 2, pass Final Reading, seconded by Representative Evans.

Representative Keith-Agaran rose to disclose a potential conflict of interest, stating:

"Mr. Speaker, just a ruling on a possible conflict. I'm affiliated with a company that has invested in a qualified high-tech business," and the Chair ruled, "no conflict."

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

"Mr. Speaker, I am in strong support and may I submit written comments?"

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

"May I have a ruling on a potential conflict, please? My conflict is as stated before. Thank you," and the Chair ruled, "no conflict."

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

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

"Mr. Speaker, I rise in opposition to this measure. Mr. Speaker, we're telling the public that we're making tough choices this Session, and yes we are. Look at us, we're cutting services, firing employees, and raising taxes.

All have immediate impacts on the State budget. What troubles me during this Legislative Session is that we aren't paying much attention to the least painful solution, and that's to broaden the tax base. Get a little out of more businesses, rather than more out of a few businesses. That discussion isn't taking place because we're so wound up in short-term solutions. We should examine how we can add technology growth to our cocktail of ideas and revenue generation options.

"This bill would cripple Act 221, and it's not visionary. It simply represents complacency. It will snuff out the burgeoning technology industry and put all of our eggs into tourism, real estate, and agricultural baskets. Relying on these traditional economic engines means we will continue to provide our children with a future in service or labor intensive industries. Let's give future generations more options by paving the way for careers that finally utilize their brains. The technology is currently a goose laying some silver eggs. Let it mature and one day those eggs will turn golden.

"This change in the bill would essentially neuter this fertile goose. We are treating the technology industry as if we can toss them around, depending upon the ups and downs of economic factors. We need a commitment to nurture this industry and let them balance their books with the tax incentives that we promised them. It is wrong to delete the two-for-one incentive before it sunsets next year.

"Some say the State should directly invest into the technology industry. We tried that. Five years ago, we discussed SPIF, the State Private Investment Fund. Then we floated the idea of creating a government funded \$100 million capital pool. Those ideas never materialized. No venture capital incentives exist today. Without capital, there is no technology industry. And, in the absence of any other tools, Act 221 is all we have.

"I spoke earlier about all the good jobs and the money being spent in Hawaii due to technology growth. Act 221, and this two-for-one ratio are luring money to the islands. When Walmart and Macy's sell their goods to our neighbors, by the end of the business day, they're wiring all that money back to their home offices on the Mainland. With Act 221, we are finally turning the tables and attracting outside money here, and that's good for all of us.

"We should allow Act 221 to quietly go away next year without tinkering with it. In a moment, we will all have to make a choice, to be visionary or complacent. When your grandchildren can walk into a wet lab at the University of Hawaii and someday find the cure for cancer, or perhaps that son or daughter or grandchild will be able to be part of a team that builds a base camp on the moon, I hope you will be able to say that in 2009 you were visionary. Thank you, Mr. Speaker."

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

"Mr. Speaker, I rise in opposition to this bill. Mr. Speaker, we should have a moment of silence rather than a speech, but since we do that at the end, I won't call for it now. Essentially, this bill is the death now of what otherwise was a booming high-tech industry. What otherwise was the beginning of not relegating the future of Hawaii to making beds and cleaning toilets.

"The hotel industry now is clearly going to be king, forever and ever, despite what we've said about high tech, because this was the one that got the money in. This was the one that gave the incentives for people to put the money in. And as I said earlier in my speech, with the amendment, this venture, this Act 221 has actually built in 10 years what it took 100 years to do with the hotel industry. We've virtually built half of the amount of money that the hotel industry brings in, in just 10 years. And now, this one scuttles it. It turns aside. It smashes the hopes of those who would look for a better future. It'll create the 'brain drain' again. It'll make those who are looking for the jobs which were \$76,000 and above go to the Mainland, rather than being able to stay here. It'll discourage some of those companies that are here from staying here or trying to get more money.

"It was a dream. It was a hope. It was something that many of us are going to be very sad about. In retrospect, it will have been 'pennywise and pound foolish.' But like the 'Recreational Renaissance,' I hope that the industry takes strength from this, even in a defeat, that the high tech vision will not be totally caved in, even though the incentives have been taken away, and that the spirit of what we know is the potential for Hawaii will still live on. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In support. All this doom and gloom about the tech industry going down. If you just watch how hard they lobby, if they had put that effort into their business, I guarantee you that industry is not going to be in trouble.

"Also, I'd like to just say that there are some benefits that Act 221 companies get, that I, as a businessman do not have, and let me go through just some of them. They get a research and development credit, which is 20%, which can apply to wages, supplies, and contracts, and it's refundable. And, you can add the federal research and development credit to that. They have an income tax exclusion. No income tax on dividends on Act 221 stock. No capital gains on the sale of 221 stock partnership or LLC interests. No income tax from stock options from Act 221 companies. Mr. Speaker, I'm a businessman. I don't get any of that.

"This also will have an income tax exclusion for royalties. There's no income tax on royalties derived from patents, copyrights, or trade secrets developed by Act 221 companies. And, if the Act 221 company is in an Enterprise Zone, you know the benefits they get from being in an Enterprise Zone. If they do scientific work, and they contract with the federal government, Mr. Speaker, they get a general excise tax exclusion. If they are a film production company, they get refundable tax credits, up to 15% to 20%. Mr. Speaker, I don't get that.

"There are other benefits, including getting grants from the government, or even film production credits that Act 221 companies get. I don't get that, Mr. Speaker.

"And lastly, Mr. Speaker, they're investors. They still get a one-for-one investment credit. I never got that in 30 years, Mr. Speaker. Thank you."

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

"Mr. Speaker, instead of submitting written comments, may I just have some time to read some comments today? Act 221 gives much and gets little back. Act 221 as currently written and implemented is welfare for the rich with no strings attached. The law enacted in 2001 provides significant tax credits for people who invest in high technology in Hawaii. The idea was to create more highly technical, well-paying jobs for island people.

"As previously noted in the early discussion on the amendment, according to a DoTax report, from its inception to 2007, it has done the following things, and these points need to be made. For \$657 million of credits, they produce 2,245 jobs. 2,245 jobs. Compare that to the jobs we have in Hawaii today of 621,000 jobs. So, out of the 621,000 jobs, it can contribute 2,245 jobs to the high tech industry.

"So, I think the point was well made. Representative Choy stated that it's about \$533,000 per job. That's an extraordinary ..."

Representative Finnegan rose, stating:

"Mr. Speaker, I was just wondering if the speaker is supposed to use the names of the individual speakers. Thank you."

Representative M. Oshiro continued, stating:

"Oh, I stand corrected. I mean, the freshman Representative from Manoa. I did mention that it came out to about half a million dollars of taxpayers' money per job. He also pointed out that it benefited 83 corporations. He also pointed out that it benefitted a little over a thousand

taxpayers who are able to claim almost 95% of their tax credits and place them into their tax shelters. Who are these people? These are people with adjusted gross incomes of \$200,000 or more.

"Mr. Speaker, the intent was not to create a 'boondoggle' for the wealthy; or a tax shelter or haven for those who claim the credit. The intent was to create a high technology industry. But that intent has not been realized because so-called investors can qualify for the handout, even if they do not create a single new job. Some have created jobs anyway, but then a few years later moved those jobs to the Mainland, or even further away from our shores, outside the United States, to foreign countries.

"Act 221 credits have already cost Hawaii's taxpayers \$747 million. And according to the Department's report, that could exceed a billion dollars over the next three to five years. But despite the high cost, the public does not know who the beneficiaries are or how we benefit. For example, we do not know how many Act 221 companies have moved away from Hawaii, or the number that are still viable. We also do not know how many new jobs resulted from Act 221, or how many of these jobs in fact still exist. That's been one of the problems.

"Finally, Mr. Speaker, throughout the Session over the last three months, this has been a battle waged between recipients, the beneficiaries of Act 221 credits, and we as the legislators on behalf of our constituents, who do not have the wherewithal, the financing, the special interest lobbying expertise in time, to be here, knocking on our doors and faxing us and emailing us. So we have stood in the gap between these few fortunate, lucky ones and the general population of our constituents.

"Act 221 partisans have passionately fought every effort for greater accountability and transparency on their benefits, and the costs of our taxpayers. They are incredibly well-financed and well-connected, and their leaders have the ability to assemble strong, thoughtful, and well-coordinated email, telephonic messaging, and fax transmissions.

"If we, on behalf of the regular people do not take an interest in this discussion and decision today, Act 221 supporters will probably get their way. The public will remain in the dark, and the welfare will continue to flow. Thank you, Mr. Speaker."

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

Representative C. Lee's written remarks are as follows:

"Mr. Speaker, I rise in opposition to this measure. The amendment offered was a good compromise that would save the State money, and would also ensure the high tech industry the support it needs. I believe SB 199 as drafted, goes too far toward choking off support for our high tech industry at such a difficult economic time, and I must oppose this bill."

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

"Mr. Speaker, in opposition, and I'm trying to decide whether I should do written comments or speak. I'll just speak. Thank you.

"Mr. Speaker, to try to explain how Act 221 works, in being able to bring in money; there's no easy way of explaining on how it works. But it brings in money that otherwise would not come here, because we need to incentivize and attract people to come and invest here locally. I remember a time when we looked to the Department Head for DBEDT, and the director said that we should use some of our ERS money to invest locally, because it's so difficult getting local investors to invest here, as well as foreign investors to invest here. And that's what Act 221 does.

"But one of the biggest things is when people say that it's going to cost us, but this is money that has already been invested in the State. So, we've actually allowed the \$1.4 billion dollars to circulate amongst our people here in the State. And then after the fact, when they have a tax liability, then they can claim the credit. Mr. Speaker, that's why I see such a huge benefit in this, because we keep on trying to get money from outside, coming in. That's just the opposite of what we do with energy when we're

buying a barrel of oil. We're taking our money and we're buying outside. So, we're doing the opposite. We're trying to bring outside money in, and that's what Act 221 does. That money circulates in our economy, and that money, through salaries, yields income taxes. Through buying and purchasing of services, that's more money that goes through our restaurants, where we get GE tax from. All of this \$1.4 billion that gets invested into Hawaii, it comes through our system, and we do get tax revenue from other than the corporations, or the QHTBs.

"Mr. Speaker, we have this whole thing about welfare for the rich, or we try to condemn the rich for making money, in some of the conversations that we have on the Floor. When you think about that, one person that may make a high income, they pay way more in taxes. And those taxes actually benefit our everyday people, whether it be a government worker, or public project that we do. And so, it strikes me a little that we keep on saying that we have to protect our average-day taxpayer, when the more money that we can get into this economy, the more that we're able to support all of us here.

"Mr. Speaker, again, this is \$1.4 billion, as of, I believe the last record, and we'll see more if we allow Act 221 to thrive. But if not, then I think that we're actually not allowing the recovery of our economy by doing this. Thank you."

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

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

"Act 221/215 is probably the most aggressive package of tax incentives in the USA, providing a 100% tax credit against Hawaii State taxes for equity investments in qualified high tech companies. Other benefits include a 20% refundable tax credit for research and development, no Hawaii income tax on royalty income paid on the licensing of intellectual property, and more. Non-profit investors or those without Hawaii income tax liabilities (e.g., investors from out of state) can have their investment claimed by other investors in the deal who do have Hawaii tax liabilities although the additional credit is capped at 1.5 times the Hawaii taxpayer's investment.

"The former State Tax Director, who was the lawyer who wrote the law, is now in private practice helping business take advantage of the law.

"Economist Paul Brewbaker is not a fan of Act 221. He finds it "neither necessary nor sufficient" for Hawaii to demonstrate our openness to business. He stated in a recent interview that "Act 221 (and its predecessor, Act 215) is a clear signal that political pressures, with little economic foundation, are the dominant determinant of the character of Hawaii's business climate.

"The generous tax credits we have been giving away are now not as possible given the revenue shortfall we face. The credit will continue until its sunset in 2010 but at 80% rather than 100%. An evaluation of the usefulness of the credit should be done concurrently."

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

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 199, Conference Draft 2. This bill has been sold to the Legislature as a means to rein in the tax credits afforded to wealthy investors through Act 221 which was intended to help build the high-tech industry here in Hawaii. However, without caps per qualified high technology businesses for investments made or without aggregate caps on the investments per year for which credits may be claimed, the important effect touted by this bill's supporters is speculative at best.

"Moreover, at a time when we should be fostering those industries that have the best chance of offering high-paying jobs in the future, this bill undermines the efforts of Act 221 that have been taking root over the past 8 years and simply makes it difficult for knowledge-based, idea-based, technology-based industries from staying here in Hawaii. Coupled with this Legislature's imposition of increased taxes on the tourist industry through the transient accommodations tax during a time when our tourist industry is seeing huge dips in people travelling to Hawaii, I am very concerned that our overall tax policy does not look to building jobs for the future and is simply too anti-business."

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

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition to S.B.199 – Relating to Taxation. This bill lessens allowable tax credits for high-tech businesses. Unfortunately, this measure would effectively kill Act 221/215 and eliminate any hope of diversifying our economy with environmental and high-tech industries. This bill changes the rules in the middle of the game resulting in a black eye for business.

"High-tech industries already give us a 3:1 ratio of private sector dollars invested for every dollar of Act 221/215 tax credits claimed. I believe this bill may send a clear message to high-tech industries and investors that they should take their investment dollars elsewhere. Given the current economic state it is now more important that we promote and diversify new industry in Hawaii. 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. 199, SD 1, HD 1, CD 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Final Reading by a vote of 35 ayes to 14 noes, with Representatives Belatti, Berg, Brower, Ching, Finnegan, Hanohano, Keith-Agaran, Luke, McKelvey, Morita, Saiki, Thielen, Wakai and Ward voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 135 and S.B. No. 1677, SD 1, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1677, SD 1, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. In opposition. To all my colleagues, it is with heartfelt aloha that I humbly ask your patience and allow me to share a few of my thoughts to be included in the Journal. All Session, this issue has been a major concern of the State, especially among the Native Hawaiian community. Senate President Colleen Hanabusa said it clearly on Opening Day as well, 'We know we must address the sense of betrayal that many in our Native Hawaiian community feel on the issue of ceded lands, and in particular the case now pending before the U.S. Supreme Court. We will not turn a deaf ear to these questions, as difficult as they may be. We have heard the call of the people, and we must respond.'

"Leading up to today, the Legislative Hawaiian Caucus, the University of Hawaii law students of Kupu'aina Coalition, Hawaiian Civic Clubs, the Royal Order of Kamehameha, the Kanaka Council, and many other groups provided an ongoing forum that involved the public in the discourse, and allowed lawmakers to hear arguments from different sides of the ceded lands debate. I want to thank everyone who provided unwavering support for a full moratorium.

"In the beginning of the Session, many factors were taken into account in the decision to pursue a legislative mandated moratorium. Issues, such as the length of the moratorium, its effect on the State's bond rating, the need for reconciliation, and potential lawsuits resulting without a moratorium, were all presented to lawmakers at the public Legislative Hawaiian Caucus *kukakuka* meetings.

"There was much discussion that took place among this body, out in the communities, and with the general public. Even after the U.S. Supreme Court's ruling, many felt that a full moratorium is the policy. However, with much discussion and negotiation, a compromise was born, and today we are voting on this Senate Bill 1677, Conference Draft 1. For the record, I would like to let everyone know here that I believe there is fiduciary responsibility of the State to Native Hawaiians.

"Furthermore, I have always and will continue to support a full moratorium, because I believe that we need to protect the Trust until Native Hawaiians have relinquished their claims and reconciled. As we vote today on Senate Bill 1677, this legislation will provide a *kapa* over our lands, and serve as a protection to the sacred lands from being sold. Now, do you feel the *kapa* is well-made for this task? As a Native Hawaiian, we were brought up to understand that it is our *kuleana* to serve as stewards of these lands. We need to be sure that these lands remain intact, for perpetuity, so that those who are unborn will be able to live and sustain themselves from these lands. I am not that confident that this legislation will protect our sacred lands from being sold. I see *puka's* in the *kapa*.

"Another reason for my opposition to this bill is that in December in 1986, a final report on the Public Land Trust was completed by the Legislative Auditor, and the report was made to the Legislature of the State of Hawaii. In this final report, on the Public Land Trust, Chapter Four, reported on the inventory of the public lands. In this Chapter, it states that the Department of Land and Natural Resources is responsible for all public lands used by or under the management control of all agencies, except the University of Hawaii, and the Hawaii Housing Authority.

"Later in Chapter Four, the report talks about the problems with the inventory. The inventory was done by the DLNR, and they were the first to admit that the inventory contains inaccuracies. The inaccuracies are in the classification of land, as ceded or non-ceded, and as trust land or non-trust land and the acreages of parcels.

"My point is that until a complete, accurate inventory is completed, I don't feel that the State should be selling ceded lands. We need to protect the corpus of the Trust. And while I appreciate having somewhat of a policy in place, I strongly feel that it is not good enough to protect our *'aina*, or more importantly, protect the public Trust entirely. Furthermore, I cannot support Senate Bill 1677 in its current form. Thank you."

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

"Mr. Speaker, I have reservations about this measure. Mr. Speaker, I know that my colleagues have a lot of aloha for Hawaiians and I sincerely hope that the approval and disapproval process in this bill will provide protection for ceded land, while claims to the Hawaiian people are still in dispute. As a non-Hawaiian, I have concerns about the whole concept of selling or exchanging State land. In this island state, where land is extremely scarce, we have had to take the extraordinary action necessary to force landowners to sell their land. The controversial lease-to-fee conversions have always struck me as inherently unfair. Of course landowners will believe that no amount of money can compensate on this tiny island, where land really is power.

"Based on these concerns, both for non-Hawaiians and Hawaiians alike, I believe it's very dangerous to set up a procedure as described in this bill. As I said earlier, I know that all of you share my concerns for the fate of Native Hawaiians and for the rest of the Public's Land Trust, which is held by our State. But what if the make-up over this Legislature changes dramatically in five or ten years? And what if those future lawmakers do not share our aloha for Hawaiians or for the value of our State's land trust? We have no control over that, but we do have control over the policy we set in motion today. We should not allow sells or exchanges of the land we hold and trust, period."

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

"Mr. Speaker, I am speaking in favor of this measure, but with some reservations. First of all, I want to congratulate the House Conferees for working with the Senate on a very difficult measure. And, I think it's a fair compromise, except for one area that I am concerned about, which is the roads and streets. Previously, S.B. No. 1677 provided us an exemption on the streets and roads. This draft does not. You would still need to come to the Legislature and get the two-thirds approval before you can go ahead on that.

"If we don't make any changes in the future, I think it can provide some real problems in future land exchanges, developments, etc., and it will certainly provide a nexus for problems. I can only ask that someday, hopefully we'll look at this again, examine that again, and see if we can make the appropriate changes at that time. Thank you, very much."

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

"Thank you very much, Mr. Speaker. With reservations. And, may I have the comments of the Representative from Waianae entered into the record as if they were my own? And, I just want to make a brief note that if we're so concerned about protecting our bond rating, then we should be concerned about protecting the corpus, because if you diminish the corpus, and therefore you diminish your assets, and therefore you diminish your bond rating. Thank you."

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

"Thank you, Mr. Speaker. I rise in support with reservations, and I ask that the comments made from the Representative from Makaha be entered into the Journal as if they were my own, except for the part of not being part Hawaiian. I also ask to insert written comments. Thank you."

Representative Awana's written remarks are as follows:

"Mr. Speaker, I rise in support with reservations. Initially, I was concerned about the changes that were made in other committees before arriving in our House Finance Committee. However, as this measure proceeded through the legislative process I decided to allow the measure to run its course. The merits of this measure have come to a compromise where there will be a 2/3 approval process instead of a 2/3 disapproval process and when I asked Clyde Namuo about how OHA beneficiaries would receive the 2/3 disapproval process, he stated, "They would be irate." He then added that the 2/3 approval process would be much more palatable.

"Based on these issues, I am supporting this measure. With that said, I would like to have seen a moratorium included in this bill until all State lands could be properly inventoried so all ceded lands could be identified before even thinking about moving forward and this is my reservation. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I rise in opposition to this bill. I think you all know by now how I feel about the selling of public lands, and much less how we're tinkering with the ceded lands. I really urge our colleagues to think very seriously and deliberately about not only what we're doing here, but definitely what we're doing with regards to the lands.

"There are court cases pending. I know we can do a lot of things. We can interfere, we can stop, we can block, we can promote, but more importantly, I hope that we will really listen to the words of the Representative from the Leeward Coast, and pay attention to who we are today here, and the needs of our Hawaiian people. Thank you."

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

Representative C. Lee's written remarks are as follows:

"Mr. Speaker, while I rise in support of this measure, I still believe we should have a full moratorium on the sale of ceded lands until Native Hawaiian claims can be resolved. Our State Constitution places these lands in a public trust that we cannot allow to be broken. Land is the most important asset we have. Any sales of these lands and all public lands should be held to the highest scrutiny, especially if claim to them is challenged."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1677, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO LANDS CONTROLLED BY THE STATE," passed Final Reading by a vote of 45 ayes to 4 noes, with Representatives Berg, Carroll, Hanohano and Shimabukuro voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 139 and S.B. No. 166, SD 1, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 166, SD 1, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

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

"I rise in support of this measure which would make access to oral chemotherapeutic agents available as conveniently as intravenous agents.

"Chemotherapy is used to treat various types of carcinoma, and new oral agents are being developed every day. Often both an oral and intravenous agent of the same name and purpose are available.

"Because of differences in reimbursement, there have been problems with access to the oral agents among some patients. This bill would ask insurers to find an equitable way to insure patients for whom oral agents are the physician's choice for treatment.

"The advantages of access to oral agents are many. They are easily administered and the patient may be treated at home; therefore, there are no associated travel or hotel costs. Oral agents do not require IV access or a surgical port and there is no need for a nurse to monitor the patient while the drug is being administered. Patients without IV access or a port are less susceptible to infection.

"As time goes by the drugs used for cancer therapy will become more sophisticated. Those that can be orally administered provide a tremendous advantage to the patient and his family related to safety and quality of life. This bill helps to provide access to life saving drugs and assures the consumer will be able to afford the treatment which is most appropriate for his needs.

"I urge the passage of this measure."

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

Representative Aquino's written remarks are as follows:

"The purpose of Senate Bill 166 is to ensure that oral chemotherapy treatments are covered by health insurance. It would also require health insurance providers to provide parity of coverage for oral and intravenous chemotherapy. I believe cancer treatment should be available to all people, including those with limited economic means. I support this measure for it will be able to provide the most effective methods for cancer treatment available, especially those who need access while at home."

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

"Mr. Speaker, on Conf. Com. Rep. 139, I'm going to support it, but I do have some concerns, as it exempts the sunrise analysis and sets some precedents. 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. 166, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

At 3:37 o'clock p.m., the Chair noted that the following bills passed Final Reading:

H.B. No. 986, HD 1, SD 1, CD 1
 H.B. No. 1378, HD 2, SD 2, CD 1
 S.B. No. 1058, SD 2, HD 2, CD 1
 S.B. No. 199, SD 1, HD 1, CD 2
 S.B. No. 1677, SD 1, HD 2, CD 1
 S.B. No. 166, SD 1, HD 1, CD 1

Conf. Com. Rep. No. 142 and S.B. No. 292, SD 1, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 292, SD 1, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

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

"Mr. Speaker, I rise to speak in favor of Senate Bill No. 292, Senate Draft 1, House Draft 1, Conference Draft 1, Relating To Funds.

"The purpose of the measure is to reallocate for six (6) years, from July 1, 2009 to July 1, 2015, the distribution of funds in the Hawaii Tobacco Settlement Special Fund.

"The change in allocation is as follows:

- The amount to the Emergency and Budget Reserve Fund shall be reduced from 24½% to 15%;
- The amount to the Department of Health shall be reduced from 35% to 25%;
- The amount to the Hawaii Tobacco Prevention and Control Trust Fund shall be reduced from 12½% to 6½%; and
- 25½% shall be deposited to the credit of the State general fund.

"The expected revenue gain for the general fund is \$12 million per year for 6 years. It should be noted that the Tobacco Prevention and Control Trust Fund has approximately \$38 million in its fund balance. Examining the expenditures on an annual basis, it has ranged from a low of about \$3 million, to a high of \$7 million. Additionally, the Fund will continue to receive about \$3 million per year under the new allocation. Considering the alternative of having to make additional cuts to State programs in the State budget, I believe this to be a fair compromise.

"For these reasons, I respectfully urge my colleagues to support this bill. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 292, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO FUNDS," passed Final Reading by a vote of 45 ayes to 4 noes, with Representatives Berg, Brower, C. Lee and Saiki voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 143 and S.B. No. 972, SD 2, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 972, SD 2, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you very much, Mr. Speaker. With reservations. I don't think this measure is going to bring in the money the DoTax is peddling it will. I think this is going to end up just in lawsuits, and just another great idea from the 'brain trust.' Thank you very much."

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

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

"Thank you, Mr. Speaker. In strong support. I think this has been a bill that has gone through the process with quite a bit of tinkering. We believe that this is a fair and balanced approach to try and collect money from those who do not pay their fair share, and I would point to this as one of those bills, as somebody had asked for, that tries to tax a broader group. 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. 972, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAX ADMINISTRATION," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 145 and S.B. No. 415, SD 2, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 415, SD 2, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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:

"Mr. Speaker, I rise in support.

"Home care agencies provide valuable home care services, such as personal care, homemaker assistance, and respite care to an increasing segment of Hawaii's residents. Especially with Hawaii's large elderly population, there is more demand for home care services. Therefore it is necessary to license providing agencies to ensure that minimum standards of quality, safety, and responsibility are met for consumer protection. Requiring the licensure of home care agencies in the State will help protect vulnerable consumers who utilize these services.

"I note that the bill language requires the Department of Health to report to the Legislature, before the 2010 Session, its recommendations to ensure the prevention of financial exploitation of home care agency clients and to improve the home care licensing program. Together these provisions would give greater assurance that vulnerable individuals will have quality environs where safety is primary."

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

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

"Mr. Speaker, I rise in support.

"Home care is a rapidly growing sector of the health care continuum. It is a cost-effective service for many individuals who are recuperating from a hospital stay and also for many who, because of a functional or cognitive disability, are unable to take care of themselves. As more elderly and disabled individuals require such care, the need becomes more urgent for the monitoring of the agencies and individuals providing such care.

"Elderly and disabled people increasingly prefer to remain at home rather than being institutionalized. Home care reinforces and supplements care provided in the home by family members and friends, maintaining the

recipient's dignity and independence. Unfortunately, home care is often confused with other types of health care. Home health agencies are currently licensed by the Department of Health. Home health is directed by a physician and focuses on services provided by licensed professionals, such as registered nurses, physical and occupational therapists, and speech therapists.

"Home care may be provided by professionals, as well as ancillary personnel and homemakers. Currently, many families using the services of home care agencies no doubt think that the industry is regulated, but it is not. Without licensure, the safety of those who receive home care is at risk, especially since home care is provided to frail and elderly consumers in many cases. The measure would also benefit the family caregiver who use home care services such as respite and homemaker services. Licensure of the agencies would give them peace of mind.

"The State has an obligation to protect consumers from improper care, exploitation, and abuse. At a minimum, the competence of home care agency employees should be established, and criminal background checks should be performed.

"The mandatory licensure of home care agencies is designed to assure the public that the services provided by such agencies comply with appropriate standards. Without mandatory licensure, these assurances cannot be given. 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. 415, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HOME CARE AGENCIES," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 146 and S.B. No. 496, SD 2, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 496, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I rise in support. Thank you, Mr. Speaker. This is basically the Charter School Bill, Mr. Speaker, and at the last time that we had seen this bill on Third Reading, there was a 'no' vote from the Republican Caucus. There's been significant improvement to this bill, and so I did want to thank both Education Chairs of the House and the Senate for really taking a look at this bill and working with the Charter School community.

"This bill alters the Charter Schools' per pupil funding formula and allows them to submit a CIP budget request. Mr. Speaker, what I would like to say is that I also want to thank the Finance Chair, because I'm sure that we needed his approval to move forward with this bill. I would also like to say that this bill is good. They're still going to have to struggle with a lot of the funding issues. But, this bill gives them some hope that we do support Charter Schools. 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. 496, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CHARTER SCHOOLS," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 147 and S.B. No. 1248, SD 1, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1248, SD 1, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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:

"Mr. Speaker I support this measure.

"SB 1248 SD1 HD1 CD1 improves upon the State Enterprise Zone Program by extending for an additional three years EZ tax credits and exemptions for businesses engaged in the manufacturing of tangible personal property or in the producing or processing of agricultural products. The legislative intent behind this measure is for the EZ program to extend its existing seven year tax exemptions and credits for an additional three years, for a grand total of ten years. This additional enhancement will support the enterprise zones mission for many years.

"The bill also extends the definition of "qualified business" and "service business" to include limited liability companies; and fine-tunes qualification requirements by allowing the receipts, sales, and employees of a business's establishments in all EZs located within a single county to count towards those requirements.

"These provisions would foster continued growth of Hawaii's agricultural industry by benefiting agricultural producers with an extension of EZ tax credits and neighborhood revitalization programs that would create agricultural jobs.

"Such steps are necessary if we are to support a more diversified ag industry that is at once self-sustaining and competitive in the global marketplace and I urge my colleagues to join me in voting aye."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1248, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE ENTERPRISE ZONES," passed Final Reading by a vote of 48 ayes to 1 no, with Representative Wooley voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 157 and H.B. No. 35, HD 1, SD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 35, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

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

"Mr. Speaker, I rise to speak in favor of House Bill No. 35, House Draft 1, Senate Draft 1, Conference Draft 1, Relating to Income Tax Credit.

"The purpose of this bill is to meet the requirements of Article VII, section 6, of the Hawaii Constitution which mandates that a tax refund or tax credit be provided to Hawaii taxpayers when the state general fund balance at the close of each of two successive fiscal years exceeds five percent of the general fund revenues for each of the two fiscal years.

"For taxable year 2009, the general income tax credit is equal to \$1 and shall be deducted from income liability computed under Chapter 235, Hawaii Revised Statutes. The estimated revenue loss is at \$1.1 million.

"In 2008 and 2007, the constitutional requirement for a tax credit was also met. In 2008, the tax credit was also \$1. In 2007, the distribution of the credit was based on the taxpayer's federal adjusted gross income; which allowed us to return about \$25 million to low income taxpayers.

"As you can see, Mr. Speaker, when times were good, we gave back more. Times are definitely not good right now. However, despite the budgetary constraints placed on us by current economic conditions, the Legislature is obligated to comply with the State Constitution and provide a tax refund to the taxpayers of the State. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 35, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INCOME TAX CREDIT," passed Final Reading by a vote of 49 ayes, with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 158 and H.B. No. 1495, HD 1, SD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1495, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Yes, Mr. Speaker. There are some chuckles over here, and I just wonder why. I wish to speak with some reservations on this measure. I believe this is a very unfair bill, Mr. Speaker. If you make money wagering, you must include it in your tax papers. If you lose money, you cannot. So, there seems to be some unfairness there. Some bias against gaming. I think we need to look at this issue again, Mr. Speaker. Thank you."

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

"Thank you very much, Mr. Speaker. In support. I share the thoughts of my colleague from Wailuku, but you know what? We shouldn't allow those who bet badly to be able defer their expenses. If you're going to bet on the Bulls, you get the 'horns.' Thank you, very much."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1495, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE INCOME TAX," passed Final Reading by a vote of 47 ayes to 2 noes, with Representatives Hanohano and Nishimoto voting no, and with Representatives Bertram and Takai being excused.

At 3:44 o'clock p.m., the Chair noted that the following bills passed Final Reading:

S.B. No. 292, SD 1, HD 1, CD 1
 S.B. No. 972, SD 2, HD 1, CD 1
 S.B. No. 415, SD 2, HD 1, CD 1
 S.B. No. 496, SD 2, HD 2, CD 1
 S.B. No. 1248, SD 1, HD 1, CD 1
 H.B. No. 35, HD 1, SD 1, CD 1
 H.B. No. 1495, HD 1, SD 1, CD 1

Conf. Com. Rep. No. 159 and H.B. No. 1544, HD 1, SD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1544, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I rise in opposition to Conf. Com. Rep. No. 159. Thank you, Mr. Speaker. This bill is relating to taxation. This bill amends Hawaii's Tax Code to phase out personal exemptions for single taxpayers earning \$75,000 or more, and taxpayers filing jointly who earn \$112,000 or more.

"The more money an individual makes, the less that individual can claim as a personal exemption. On the federal level, the IRS also phases out personal exemptions. Hawaii's personal exemption is very different from the federal version, though. Currently, each Hawaii taxpayer may take a personal exemption of \$1,040, but the federal exemption is \$3,500. Given the high cost of living in Hawaii, the current personal exemption is nominal already, and phasing out an already low exemption will basically eliminate the personal exemption for these individuals. This is just another effort to squeeze every drop of tax revenue out of the citizens of Hawaii. Thank you."

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

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition to H.B. 1544 - Relating to Tax Exemptions.

"I do not believe in raising taxes on middle income families during an economic crisis. The Department of Taxation testified, 'Given Hawaii's high cost of living, the current \$1,040 personal exemption is nominal, at best.' With Hawaii's taxes already high taxes it is my belief that now is not the time to be phasing out personal exemptions. Thank you."

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

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

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

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

"Mr. Speaker, in support. Just for the Members' edification, this has a fiscal impact of \$10.5 million every year, starting in fiscal year 2010. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1544, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAX EXEMPTIONS," passed Final Reading by a vote of 43 ayes to 6 noes, with Representatives Ching, Finnegan, Marumoto, Pine, Thielen and Ward voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 164 and H.B. No. 1405, HD 2, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1405, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you very much, Mr. Speaker. With reservations. Just as a matter of history. I worked with the good Representative from Manoa on this measure as it moved through our Committee, and I like the idea. I thought this was a really good, thought-out approach. But as we even discussed among ourselves, with deference to the good Representative from Wailuku, this was a 'roll of the dice,' so to speak. And, the roll of the dice being that the programs, like Amazon and others would end their reseller relationship with Hawaii and/or file suit.

"At the time that this measure was moving through, it would appear that they were not going to challenge the New York ruling, but it now appears that they are. It also appears that a letter we got in Conference, that they are ready to end their reseller relationships here in Hawaii and/or file suit.

"And so, my concern is that the anticipated revenue coming in may not materialize given these factors, and it could cause a problem with the budget. I do support the underlying concept, but I just have concerns, given these new developments. Thank you, very much."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1405, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAX," passed Final Reading by a vote of 40 ayes to 9 noes, with Representatives Belatti, Brower, Ching, Finnegan, Luke, Marumoto, Pine, Thielen and Ward voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 169 and S.B. No. 1678, SD 3, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1678, SD 3, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise in strong support. This is the Streamline Sales Tax Bill. It's been in this Body before. While there are, and always has been some concerns regarding this issue, I do think it's something that we need to take a look at. Thank you."

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

"Mr. Speaker, I rise in opposition. Mr. Speaker, this is a job-killer and anti-small business. A tax increase is something that we don't need, and we're trying to revive our economy in Hawaii. Thank you."

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

"Thank you very much, Mr. Speaker. Again, with reservations. And the only reason why is, well actually, I prefer the other bill over this approach. I just think given the experiences of Rhode Island, and from what I've heard with people who dealt with the Streamline Sales Tax, that I don't think that this is going to produce the revenue that it's expected, leaving a hole in the budget, and that we are going to be at the mercy of a commission to change our tax laws when they change theirs. And, I've heard that in other states, the cost of implementing these things far outweigh the returns. So, I just have those concerns. Thank you, very much."

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

"Mr. Speaker, in opposition to the Streamline Sales Tax. I really take issue with the name, 'streamlining,' because I believe that it is very cumbersome and it will cause a lot of time and trouble and energy. So, I am voting 'no' on this."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1678, SD 3, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Final Reading by a vote of 42 ayes to 7 noes, with Representatives Brower, Ching, Finnegan, Marumoto, Pine, Thielen and Ward voting no, and with Representatives Bertram and Takai being excused.

Conf. Com. Rep. No. 172 and S.B. No. 1350, SD 2, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1350, SD 2, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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 1350, Conference Draft 1. The Kakaako District has been mired in development controversy for decades. At a time when the largest landowners are finally underway with their master planning processes that will incorporate mixed-use development, the imposition of this bill's higher set-aside requirements is questionable. This bill may also place unrealistic economic burdens on developers that will only further stymie thoughtful development in the Kakaako area. Finally, it is also not clear whether simply increasing set-asides will result in a well-designed urban community that is the ultimate goal of the master planning process. For these reasons, I oppose Senate Bill 1350, Conference Draft 1."

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 rise in support of Conference Committee Report 172, S.B. 1350, SD2, HD1 CD 1, Relating to Kakaako. Mr. Speaker, this bill increases the reserved housing requirements for development in Kakaako based on a sliding scale of square footage to be developed. Specifically, this bill increases the reserved housing requirements for residential development from 20% to 30% and commercial developments from 0% to 20% if the land area to be developed is 80,000 square feet or more. The bill further keeps the existing reserved housing requirement at 20% for residential development where the land owned is greater than 20,000 and less than 80,000 square feet, but now increases the reserved housing requirement for commercial development from 0% to 10% where the land to be developed is between 20,000 and 80,000 square feet. These percentages will increase by 5% in five years unless the Legislature determines there is adequate reserved housing at that time. Other notable provisions in this bill include incentives for developers of land over 80,000 square feet such as providing an offset of one-half of one reserved housing credit if a unit remains an affordable RENTAL for twenty years, and providing a developer who transfers land to the authority with a one-half of one reserved housing requirement credit for units developed by the authority. Other noteworthy provisions in this bill include requirements such that for-sale reserved housing units remain affordable for at least ten years and that the authority require parking stalls consistent with county requirements.

"Mr. Speaker, while opponents of this bill will contend that we must veer from the percentage requirement for reserved housing in Kakaako in order for affordable housing to be built, let us keep certain facts in mind: first and foremost, the landowners in Kakaako provided assurances to the State that it would provide affordable housing if the State of Hawaii made infrastructure improvements in the district. Accordingly, the State of Hawaii invested over HALF A BILLION dollars in public funds for infrastructure in the Kakaako district which has irrefutably increased the value of land in Kakaako. This public investment has sparked an increase in private investment and development plans for the area YET development projects in recent years have focused primarily on luxury condominiums which can hardly be considered affordable. So while the State kept its part of the bargain by investing in Kakaako's infrastructure, where are the affordable units that were promised to the State?"

"Secondly, the Kakaako Development Plan initially called for over 70% affordable housing. This bill keeps the affordable housing requirement at 20% for residential development in land areas of 20,000-79,999 square feet, but now includes a 10% affordable requirement for commercial development which had previously not existed. While the bill increases the reserved housing requirement from 20% to 30% for the landowners owning over 80,000 square feet, developing these affordable units is not insurmountable particularly in light of the fact that this bill clearly delineates what the floor area which shall be subject to the reserved housing requirement and explicitly excludes areas such as parking facilities, driveways, lanais, and covered rooftop areas. Given that the Kakaako Development Plan originally called for over 70% affordable housing in Kakaako, the Legislature has been fair in keeping the reserved housing requirements at a percentage that is viable for all stakeholders of Kakaako.

"Finally, as Kakaako is a high-density neighborhood with adequate land infrastructure paid for by the taxpayers, it can provide the economic stimulus that the construction industry needs at this time. Possibilities include 3,400 construction jobs from at least 13 affordable housing projects in Kakaako over the next 10 years. Mr. Speaker, this bill truly represents a collaboration between the House and the Senate and I want to thank the Senators from Moanalua, Manoa, and Volcano, along with the Chairs of the Committee on Housing and Water, Land, and Ocean Resources for their hard work in coming up with a Conference draft that will hopefully provide us with the affordable units in Kakaako for our future generations. 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. 1350, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO KAKAAKO," passed Final Reading by a vote of 39 ayes to 10 noes, with Representatives Belatti, Berg, Carroll, Hanohano, Keith-Agaran, C. Lee, Luke, Morita,

Saiki and Takumi voting no, and with Representatives Bertram and Takai being excused.

At 3:51 o'clock p.m., the Chair noted that the following bills passed Final Reading:

H.B. No. 1544, HD 1, SD 1, CD 1
 H.B. No. 1405, HD 2, SD 2, CD 1
 S.B. No. 1678, SD 3, HD 1, CD 1
 S.B. No. 1350, SD 2, HD 1, CD 1

At 3:52 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.

At 3:54 o'clock p.m. Representative Finnegan requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 3:55 o'clock p.m.

Conf. Com. Rep. No. 81 and S.B. No. 1, SD 1, HD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 1, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO OPIHI," passed Final Reading by a vote of 31 ayes to 18 noes, with Representatives Aquino, Berg, Carroll, Choy, Coffman, Finnegan, Hanohano, Har, Karamatsu, Keith-Agaran, C. Lee, Marumoto, McKelvey, Nakashima, Pine, Thielen, Tokioka and Yamane voting no, and with Representatives Bertram and Takai being excused.

At 3:57 o'clock p.m., the Chair noted that the following bill passed Final Reading:

S.B. No. 1, SD 1, HD 2, CD 1

ANNOUNCEMENT

Representative Karamatsu: "Mr. Speaker, on behalf of the Sergeant-at-Arms' Office, they want to let everyone know that all materials not picked up by our staff will be delivered by their office, either this evening or tomorrow morning."

ADJOURNMENT

At 3:58 o'clock p.m. on motion by Representative Evans, seconded by Representative Pine and carried, the House of Representatives adjourned until 12:00 o'clock noon tomorrow, Wednesday, May 6, 2009. (Representatives Bertram and Takai were excused.)

HOUSE COMMUNICATION

House Communication dated May 5, 2009, 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 following bills have this day passed Final Reading in the House:

HB No. 28, HD 1, SD 2, CD 1
 HB No. 31, SD 1, CD 1
 HB No. 35, HD 1, SD 1, CD 1
 HB No. 111, SD 2, CD 1
 HB No. 183, HD 1, SD 2, CD 1
 HB No. 262, HD 2, SD 2, CD 1
 HB No. 271, SD 2, CD 1
 HB No. 358, HD 1, SD 1, CD 1
 HB No. 366, HD 2, SD 2, CD 1

HB No. 371, HD 2, SD 2, CD 1
 HB No. 541, HD 1, SD 1, CD 1
 HB No. 586, HD 1, SD 1, CD 1
 HB No. 589, HD 1, SD 2, CD 1
 HB No. 590, HD 1, SD 2, CD 1
 HB No. 610, HD 2, SD 2, CD 1
 HB No. 615, HD 1, SD 2, CD 1
 HB No. 618, SD 2, CD 1
 HB No. 632, HD 1, SD 1, CD 1
 HB No. 640, HD 1, SD 2, CD 1
 HB No. 643, HD 2, SD 2, CD 1
 HB No. 813, HD 1, SD 1, CD 1
 HB No. 814, HD 2, SD 2, CD 1
 HB No. 952, HD 1, SD 2, CD 1
 HB No. 975, HD 1, SD 1, CD 1
 HB No. 981, HD 2, SD 2, CD 1
 HB No. 983, HD 1, SD 2, CD 1
 HB No. 986, HD 1, SD 1, CD 1
 HB No. 1040, HD 1, SD 2, CD 1
 HB No. 1045, HD 1, SD 2, CD 1
 HB No. 1057, HD 1, SD 2, CD 1
 HB No. 1070, SD 1, CD 1
 HB No. 1071, HD 3, SD 2, CD 1
 HB No. 1103, SD 1, CD 1
 HB No. 1141, HD 1, SD 1, CD 1
 HB No. 1152, HD 1, SD 1, CD 1
 HB No. 1166, HD 1, SD 2, CD 1
 HB No. 1174, HD 3, SD 2, CD 1
 HB No. 1316, HD 2, SD 1, CD 1
 HB No. 1351, HD 2, SD 1, CD 1
 HB No. 1378, HD 2, SD 2, CD 1
 HB No. 1379, HD 2, SD 2, CD 1
 HB No. 1405, HD 2, SD 2, CD 1
 HB No. 1415, HD 1, SD 2, CD 1
 HB No. 1422, HD 1, SD 1, CD 1
 HB No. 1470, HD 1, SD 1, CD 1
 HB No. 1479, HD 2, SD 1, CD 1
 HB No. 1495, HD 1, SD 1, CD 1
 HB No. 1512, HD 1, SD 1, CD 1
 HB No. 1525, HD 1, SD 2, CD 1
 HB No. 1536, HD 2, SD 1, CD 1
 HB No. 1544, HD 1, SD 1, CD 1
 HB No. 1550, HD 2, SD 1, CD 1
 HB No. 1552, HD 2, SD 2, CD 1
 HB No. 1611, HD 2, SD 2, CD 1
 HB No. 1676, HD 1, SD 2, CD 1
 HB No. 1692, HD 2, SD 2, CD 1
 HB No. 1696, HD 2, SD 1, CD 1
 HB No. 1713, HD 2, SD 2, CD 1
 HB No. 1776, HD 1, SD 1, CD 1
 HB No. 1809, HD 2, SD 1, CD 1
 SB No. 1, SD 1, HD 2, CD 1
 SB No. 19, SD 1, HD 2, CD 1
 SB No. 34, SD 1, HD 1, CD 1
 SB No. 35, SD 1, HD 1, CD 1
 SB No. 50, SD 1, HD 2, CD 1
 SB No. 55, SD 1, HD 1, CD 1
 SB No. 91, SD 2, HD 2, CD 1
 SB No. 113, HD 1, CD 1
 SB No. 166, SD 1, HD 1, CD 1
 SB No. 199, SD 1, HD 1, CD 2
 SB No. 203, SD 2, HD 1, CD 1
 SB No. 281, HD 1, CD 1
 SB No. 292, SD 1, HD 1, CD 1

SB No. 300, SD 2, HD 2, CD 1
SB No. 389, SD 1, HD 2, CD 1
SB No. 415, SD 2, HD 1, CD 1
SB No. 427, HD 1, CD 1
SB No. 440, SD 2, HD 1, CD 1
SB No. 470, HD 1, CD 1
SB No. 496, SD 2, HD 2, CD 1
SB No. 536, SD 1, HD 1, CD 1
SB No. 539, SD 1, HD 1, CD 1
SB No. 564, SD 2, HD 1, CD 1
SB No. 585, SD 2, HD 1, CD 1
SB No. 605, SD 1, HD 3, CD 1
SB No. 659, HD 1, CD 1
SB No. 695, SD 1, HD 1, CD 1
SB No. 711, SD 1, HD 2, CD 1
SB No. 714, SD 1, HD 2, CD 1
SB No. 764, SD 2, HD 2, CD 1
SB No. 851, SD 1, HD 3, CD 1
SB No. 868, SD 2, HD 2, CD 1
SB No. 912, SD 2, HD 2, CD 1
SB No. 914, SD 2, HD 2, CD 1
SB No. 917, SD 2, HD 1, CD 1
SB No. 931, SD 1, HD 1, CD 1
SB No. 932, SD 2, HD 2, CD 1
SB No. 971, SD 2, HD 1, CD 1
SB No. 972, SD 2, HD 1, CD 1
SB No. 1005, SD 2, HD 2, CD 1
SB No. 1058, SD 2, HD 2, CD 1
SB No. 1065, SD 2, HD 1, CD 1
SB No. 1066, SD 2, HD 1, CD 1
SB No. 1069, SD 1, HD 2, CD 1
SB No. 1073, SD 1, HD 2, CD 1
SB No. 1142, SD 1, HD 1, CD 1
SB No. 1160, SD 2, HD 2, CD 1
SB No. 1164, SD 2, HD 2, CD 1
SB No. 1183, SD 2, HD 2, CD 1
SB No. 1195, SD 1, HD 2, CD 1
SB No. 1223, SD 1, HD 2, CD 1
SB No. 1224, SD 1, HD 2, CD 1
SB No. 1248, SD 1, HD 1, CD 1
SB No. 1250, SD 1, HD 1, CD 1
SB No. 1259, SD 2, HD 2, CD 1
SB No. 1263, SD 2, HD 3, CD 1
SB No. 1268, SD 2, HD 1, CD 1
SB No. 1329, SD 2, HD 2, CD 1
SB No. 1338, SD 2, HD 2, CD 1
SB No. 1345, SD 1, HD 1, CD 1
SB No. 1350, SD 2, HD 1, CD 1
SB No. 1664, SD 2, HD 2, CD 1
SB No. 1677, SD 1, HD 2, CD 1
SB No. 1678, SD 3, HD 1, CD 1